SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS

March 28, 1991 Hearing Room C 3:00 p.m.Tapes 44 - 46 MEMBERS PRESENT:Sen. Bob Shoemaker, Chair Sen. Joyce Cohen, Vice-Chair Sen. Jeannette Hamby Sen. Lenn Hannon Sen. Frank Roberts MEMBER EXCUSED:Senator Cohen VISITING MEMBER: Representative Carl Hosticka STAF F PRESENT:Barbara Coombs, Committee Administrator Mark Sigel, Committee Assistant MEASURES SB 790 CONSIDERED:

These minutes contain materials which paraphrase and/or summarize statements made during this session. Onlv text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE 44, SIDE A

Witnesses: Dr. Thomas Bodenheimer

000 CHAIR SHOEMAKER: Calls meeting to order at 3:28.

023 THOMAS BODENHEIMER: Submits (EXHIBITS A and B). Supports SB 790. Exhibit A explains that Oregon can lead the nation toward unified health insurance plan by passing SB 790. SB 790 can contain health care costs while 1989 SB s 27, 534 and 935 will not contain costs. Exhibit B estimates potential cost savings under SB 790. 240 JIM RULER, PORTLAND INTERNAL MEDICINE PHYSICIAN: Relates his experience of treating many uninsured patients. Relates many examples of how hospitals refuse to treat homeless people, poor people and uninsured people who are sick or hurt because they lack health insurance or money. Relates how he practiced medicine in a country that had national health insurance and how good a system it was. 342 SENATOR ROBERTS: Do you feel that merely the consolidated purchasing power of SB 790 is enough to control costs? 349 BODENHEIMER: Consolidated purchasing power is a necessary prerequisite to controlling SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS March 28, 1991 - Page 2

costs. Limiting use of technology and unnecessary treatment is also crucial to controlling costs.

376 SENATOR ROBERTS: How will SB 790 limit technology usage?

381 BODENHEIMER: Under the Physicians for a National Health Program proposal which SB 790 is related to, there is a health assessment board which would determine which of the technological procedures are cost effective or even effective at all. Many people have suggested that 30% and even 50% of the things that physicians do are not effective at all. There is an "outcomes" movement to determine what is effective.

TAPE 45, SIDE A

Witnesses: Representative Carl Hosticka Representative Bev Stein Ellen Pinney, Oregon Health Action Campaign (OHAC) Brad Blumenger, OHAC

010 REPRESENTATIVE CARL HOSTICKA: Supports SB 790. Employer based insurance will never be able to cover everybody because people's lives are too complicated. The problem of access will always be with us until we pass a bill like SB 790. The opposition to this bill comes from people who have something to lose. SB 790 should not be viewed as a new tax but as a replacement of existing insurance premiums with a payroll

tax. Many employers are paying 12 - 17% of payroll for health insurance while SB 790 will impose a 9 to 10% payroll tax. 100 REPRESENTATIVE BEV STEIN: Submits (EXHIBIT C) which explains that health care access is access to a full range of health care services and not just access to an emergency room.

148 CHAIR SHOEMAKER: You said that if SB 790 passes the Insurance Reform bill would still be useful but doesn't SB 790 replace health insurance?

150 STEIN: You're probably right, I believe it does.

160 REPRESENTATIVE STEIN: I understand that legislators have a lot of investment in the bills championed by Kitzhaber last session. But we need SB 790 to establish access and contain costs. So let's be brave and go ahead and pass it.

210 ELLEN PINNEY, OREGON HEALTH ACTION CAMPAIGN (OHAC): Submits (EXHIBIT D) which explains that establishing a single payor system is an effective way to get around ERISA restrictions. Asks that SB 790 being given the chance it deserves - to be heard on the Senate floor.

300 BRAD BLUMENGER, (OHAC): Provides a section by section explanation of the bill.

TAPE 44, SIDE B

Witnesses: Ian Timm, Oregon Primary Care Association

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Dr. David Kliewer Ellen Dennis Betty Johnson, Governor's Commission on Senior Services

056 CHAIR SHOEMAKER: Assuming that we could integrate the Prioritization list into SB 790, do you have a means of providing discretionary services to those who wish it under SB 790?

083 BLUMENGER: Yes. 085 PINNEY: That is where private insurance companies will be able to operate under SB 790.

130 IAN TIMM, OREGON PRIMARY CARE ASSOCIATION: Supports SB 790. Submits (EXHIBIT E) which explains that their member clinics provide health care to the uninsured and poor for a minimum fee. There are only a few of these clinics and they are always overbooked. Clinic workers have to turn away lots of patients. We endorse SB 790. 160 DR. DAVID KLIEWER: Submits (EXHIBIT F) which explains that SB 790 will help contain costs and assure access while most federal proposals for health care reform are just band-aid approaches that won't work. 225 ELLEN DENNIS: Submits (EXHIBIT G) which explains that welfare patients are discriminated against and treated as second class citizens in our health care system. SB 790 will help solve this problem by including all citizens in the state health care plan. 385 BETTY JOHNSON, GOVERNOR'S COMMISSION ON SENIOR SERVICES: Submits (EXHIBIT N) Explains that SB 790 can make Oregon more competitive because by controlling health insurance costs which can make it cheaper to do business in Oregon. We also support how

this bill allows people to select their own providers and how there are no deductibles.

420 CHAIR SHOEMAKER: How would SB 790 system coordinate with Medicare?

421 JOHNSON: Medicare funds would be part of the global budget.

425 PINNEY: The DRG rules would not flow down to our system .

TAPE 45, SIDE B

Witnesses: Betty Rademaker, OHAC Lou Torgeson, Oregon Life Underwriters Association Ed Patterson, Oregon Hospital Association Bruce Bishop and Matthew Steifel, Kaiser Permanente

017 BETTY RADEMAKER, OHAC: Submits (EXHIBIT I). Explains that over 25,000 Oregonians have signed petitions supporting a single payor system. Most of those signing have joined Oregon Health Action Campaign or Oregon Fair Share as further evidence of the depth of their commitment. Health care costs may be $5,000 per person per year by 2000 if a single payor , These minutes contain materials which paraphrase and/or summarize statoments made during this session. Only text enclosed in quotation marh report & speaker's exact words. Fot complete contents of the proceed Ig8, please refer to the tapea. - SENATE COMMIrrEE ON HEALTH INSURANCE AND BIOETHICS March 28, 1991- Page 4

system is not adopted. 095 LOU TORGESON, OREGON STATE LIFE UNDERWRITERS ASSOCIATION: Opposes SB 790 . We should not tear down the current system. The current system does serve 85% of citizens. Is concerned that SB 790 costs will overwhelm Oregon's small businesses.

265 ED PATTERSON, OREGON HOSPITAL ASSOCIATION: Opposes SB 790. Feels that the Oregon Health Plan will be negatively compromised if SB 790 is passed. We do not support a socialized health care delivery system. 365 BRUCE BISHOP and MATTHEW STEIFEL, KAISER PERMANENTE: Submit (EXHIBIT J) We don't believe that a single payor system is the best way to achieve expanded access. I believe it would be difficult to implement a single payor system in a single state. It would be difficult to raise the taxes and it would cause migration into the state.

435 SENATOR ROBERTS: Once you are inside Kaiser you are in a single payor system. That is why it is so efficient. 445 CHAIR SHOEMAKER: What are some of the sign)ficant differences between the Kaiser plan and the Canadian system? 453SENATOR ROBERTS: One of the differences is that the Kaiser doctors are on set salaries and the Canadian doctors operate on a free enterprise basis. 455 STEIFEL: The Canadian system is a fee for service system and we operate a prepaid group practice where our providers are prepaid to deliver services and therefore have incentives to provide efficient and effective care.

TAPE 46, SIDE A

Witnesses: Scott Gallant, Oregon Medical Association Dr. Richard Johnson John Powell, BCBSO 028 SCOTT GALLANT, OREGON MEDICAL ASSOCIATION: Submits (EXHIBIT K) which states that the OMA supports the Oregon Basic Health Services Act and believes that it is a better way to provide health care than SB 790. Asserts that health care costs under the Canadian single payor system are actually increasing faster than here in the US. States that Oregonians who have health coverage now might be dissatisfied with a huge, new state operated plan. 159 DR. RICHARD

JOHNSON: Americans are not willing to have lower expectations for their health care system. This would be necessary if we adopt SB 790. Doesn't believe that the current system is collapsing around our ears.

185 JOHN POWELL, BCBSO: Opposes SB 790. Supports the Oregon Basic Health Services Act. There are a lot of good things about our health care system. I can play basketball with my son and I can put my arms around my Dad because of the present health care system. ~ . 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 1lIOETHICS March 28,1991- Page 5

230 CHAIR SHOEMAKER: Adjourns hearing.

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

EXHIBITS A - 790 Testimony, Bodenheimer, 23 pages B -790 Testimony, Bodenheimer, 1 page C - 494 Testimony, 3 page D - 494 Testimony, Pinney, 6 pages E - 494 Testimony, Timm, 2 pages F - 494 Testimony, Kliewer, 2 pages G - 494 Testimony, Dennis, 4 pages H - 494 Testimony, Johnson, 2 pages I - 494 Testimony, Rademaker, 2 pages J - 494 Testimony, Bishop, 2 pages K - 494 Testimony, Gallant, 10 pages L - 494 Testimony, Otto, 2 pages M - 494 Testimony, de Garmo, 3 pages N - 494 Testimony, Mari Anne Gest, 11 pages O - 494 Testimony, Laurie Wimmer, 3 pages P - 494 Testimony, Vollina Kerr, 1 page Q - 494 Testimony, OR Health Council, 2 pages R - 494 Testimony, Wotton, 2 pages . , . . 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 March 28, 1991- Page 6 S - 494 Testimony, Currie, 1 page T - 494 Testimony, Organ, 2 pages U - 494 Testimony, Grier, 2 pages V - 494 Testimony, Ostrach, 1 page W - 494 Testimony, Anonymous, 2 pages X - 494 Testimony, Jacobs, 6 pages Y - 494 Testimony, Fambro, 1 page Z - 494 Testimony, Witka, 2 pages AA - 494 Testimony, Gredler, 2 pages BB - 494 Testimony, Yokum, 1 page CC - 494 Testimony, Graham, 1 page DD - 494 Testimony, Hottle, 3 pages EE - 494 Testimony, Ezell, 1 page FF - 494 Testimony, Anonymous, 2 pages

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SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS

March 28,1991 Hearing Room C 3~p.m. Tapes 4S~ 45 V7-9f 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

MEASURESSB 494 CONSIDERED:

These minutes contain materials which paraphrase and/or summartze statements made during this session. Onlv text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE 49, SIDE A Witnesses: Barbara Coombs, Committee Administrator Tina Kitchen, Office of Developmental Disabilities Bob Castagna, Oregon Catholic Conference 000 CHAIR SHOEMAKER: Calls Work Session to order at 6:45.

007 BARBARA COOMBS: We are working with the hand-engrossed SB 494- 4. 040 COOMBS: The first issue is the definition of art)ficially administered nutrition and hydration. We have made it clear that does not include usual and typical administration of food, from a cup or bottle for example.

We have removed the extension of the bill to cover disposition of remains. The definition of a health care representative includes: "other person with legal authority." 109 SENATOR HANNON: Does our current bill have tight enough language to prevent an inappropriate application of this bill to developmentally disabled people? 123 DR. TINA KITCHEN, OFFICE OF DEVELOPMENTAL DISABILITIES: I think adding in that: "the person cannot communicate with people he or she would normally be familiar with," helps make the language tight enough. SENATE COMMI1~EE ON HEALTH INSURANCE AND BIOETHICS Much 28, 1991- Page 2

137 CHAIR SHOEMAKER: There seems to be a consensus to leave the language as we have it. 144 SENATOR HANNON: Does our current language meet your criteria, Mr. Castagna? 147 BOB CASTAGNA: No. I'm not comfortable with repealing existing law which says that the attending physician and another physician must confirm when a person is permanently incapable. What this bill does is repeal existing safeguards. 202 CHAIR SHOEMAKER: What our current bill does is require the attending physician, after determining that a patient is incapacitated, to confer with the holder of the power of attorney on health care decisions. When you get to the point of making a decision regarding a life sustaining procedure, then you must have that opinion of incapacity confirmed by an additional physician.

414 CHAIR SHOEMAKER: Perhaps we should say: "As used in this Act, life sustaining procedures does not include artificial nutrition and hydration."

TAPE 48, SIDE A

031 COOMBS: We're getting into some of the changes as a result of Ted Falk's testimony.

057 COOMBS: Ted Falk wanted to make it clear that a minor can't fill

out a power of attorney. 136 COOMBS: Are we likely to become so out of line with the rest of the country that people come to Oregon to die? 138 CASTAGNA: We don't want Oregon to become a death haven.

141 SENATOR ROBERTS: "Visit us but don't stay." 143 CASTAGNA: Is that the subtitle of SB 1141 (Physician Aid in Dying)?

237 COOMBS: Do we want to make a special allowance in the bill for emancipated minors?

238 SENATOR ROBERTS: I think you almost need to because they don't have anyone to speak for them. 240 CHAIR SHOEMAKER: We can do that. We can say: "A capable individual who has obtained 18 years of age or an emancipated minor.. "

243 COOMBS: Do you want to say that person can execute the directive too? 244 CHAIR SHOEMAKER: We'll try it.

TAPE 47, SIDE B 036 CHAIR SHOEMAKER: We don't want to be making decisions about life support when the s about life support when the patient still has a long time to live in a terminal condition. SENATE COMMITTEE ON HEALTH INSURANCE AND BIOE1~ICS March 28, 1991 - P - e 3

042 KITCHEN: This situation may apply when individuals with muscular dystrophy who are at the end of their illness may indicate that they do not want to be placed on a ventilator. Dialysis patients sometimes don't want dialysis. So there are a lot of situations here where the scenario you are talking about may apply.

TAPE 48, SIDE B Witness: Karn Groener, Oregon Health Care Associations ' 051 COOMBS: Section 10: the meat of the bill. We have now distinguished artificial nutrition and - hydration from a life sustaining procedure. Here is a major policy issue, maybe the crux of the bill. The bill says: "Neither (a) nor (b) requires that a patient be terminally ill or permanency unconscious before a life sustaining procedure or artificial nutrition or hydration may be withdrawn or withheld. There are 4 circumstances under which withdrawal can take place: (1) when the attorney in fact has that power; (2) there is a directive and the conditions of the directive have been met; (3) where the patient is terminal; and (4) where the patient is terminally unconscious." Mr. Castagna asks if it was intentional that number 1 and number 2 not necessarily include a terminal condition or a permanent unconscious state. It was drafted intentionally and it's a policy intention whether or not to leave it that way. 084 CHAIR SHOEMAKER: We have already worked our way through this question. 188 CHAIR SHOEMAKER: I'd like to reexamine the question of whether a neurologist must be present before a patient can be declared permanently unconscious. It is very expensive for rural areas to bring in a neurologist and most times an internist or family practitioner is competent to make that judgement. 200 KITCHEN: I disagree. There are several neurological states that are difficult to diagnose and I think this bill should require that a neurologist determine whether patients are truly permanently unconscious or not. 230 CHAIR SHOEMAKER: Would family doctors normally know to consult with a neurological specialist in such a circumstance? 232 KITCHEN: Usually, but not always. 251 SENATOR HAMBY: Can teleconferencing adequately substitute for having a neurologist on site to make these determinations? 263 KITCHEN: I'm not very familiar with the teleconferencing capabilities. Some systems allow doctors to view patients through a video display and to receive their EEG readout. However, we are frequently dealing with close calls so that this data is

insufficient. Furthermore, the neurologist who testified at the first hearing believed teleconferencing was insufficient.

284 CHAIR SHOEMAKER: Would it work for neurologists to first view a patient and examine them with teleconferencing capabilities and then decide whether they have enough information to make a determination or whether they must see the patient in person?

190 KITCHEN: Maybe. But this bill will work only as well as the people involved. So if a neurologist does not have his heart in making the correct determination, then a teleconferencing examination is even more prone to bad decisions: 297 KAM GROENER, OREGON HEALTH CARE ASSOCIATIONS: We feel that the bill as currently written would make it almost impossible to give effect to patient directives. Rich families can pay for the transport of physicians out to rural areas to make necessary diagnoses. Poor families cannot. TAPE 49, SIDE A

005 GROENER: As far as cases where someone from out of state gets in a permanently unconscious condition here in Oregon, OHCA and OHA have some language on this issue that we are willing to propose. 026 CHAIR SHOEMAKER: Provide Barbara with those and we'll consider them. 332 CHAIR SHOEMAKER: Adjourns hearing at 8:45.

Submitted by: Reviewed by:

~J; ~ Mark Sigel Barbara Coombs Assistant Administrator