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

May 23, 1991Hearing Room C 3:00 p.m.Tapes 97 - 99

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 Guadalupe C. Ramirez, Committee Assistant

MEASURES CONSIDERED: SB 1077 - RECONSIDERED SB 321 SB 593

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 97, SIDE A

003 CHAIR SHOEMAKER: Called meeting to order at 3:17 p.m.

MOTION:CHAIR SHOEMAKER moved to reconsider the vote by which SB 1077 was adopted

VOTE: The motion carried with Senators Cohen, Hamby, and Shoemaker voting AYE and Senator Hannon voting NAY. Senator Roberts was excused.

RECONSIDERATION OF SB 1077

MOTION:CHAIR SHOEMAKER moved SB 107 7 to the floor with a {"do pass" recommendation}.

DISCUSSION TO THE MOTION

108 SENATOR COHEN: Suggested a letter to the Senate President's office requesting that SB 1077 be allowed to go directly to the floor, would be sufficient. 021 MOTION:SENATOR COHEN moved that a letter be sent to the Senate President requesting that SB 1077 be allowed to go the floor. Further moved that the Senate President arrange it so that SB 107 7 be referred to House Ways and Means. Further moved SB 1077 to the floor with a {"do pass" recommendation}.

VOTE:The motion carried with Senators Cohen, Hamby and Shoemaker voting

AYE and Senator Hannon voting NAY.

PUBLIC HEARING/WORK SESSION ON SB 321 Witnesses:John Powell, Blue Cross/Blue Shield Mark Nelson, National Association of Social Workers Brian DeLashmutt, Oregon Nurses Association Page Sipes-Metzler, Health Services Commission Chuck Bennett, Oregon Psychological Association Bruce Bishop, Kaiser Permanente

030 COOMBS: Submitted and explained SB 321-1 (EXHIBIT A).

096 SENATOR HANNON: If an employer had a program in place and the state changed its priority listing, which plan would a new employee fall under, based on Section 1 (a) (EXHIBIT A)?

108 COOMBS: The solution would be to tie it to funding of the 66th legislative assembly. They would look at the defined funding level that came out of this session. > This legislative assembly would be establishing the standard.

120 CHAIR SHOEMAKER: This plan would ensure that employers have a reliable plan.

122 SENATOR HANNON: What would happen to the person buying the plan which was not on the prioritized list now? Would that person be excluded from that coverage?

125 CHAIR SHOEMAKER: Doesn't have to be provided until there is legislation on it.

130 SENATOR HANNON: What happens when a prioritization is reviewed and new services are added to the prioritization list, does that exclude that person because it was tied to this session?

141 CHAIR SHOEMAKER: They wouldn't have to change the plan because this ties them to the 1991 standard health plan, they would have the choice to revise it.

168 JOHN POWELL, BLUE CROSS/BLUE SHIELD: It would probably address the level of qualified services adopted this session and it would ignore fluctuation.

172 SENATOR HANNON: Would it go down below that level?

175 POWELL: As long as it wasn't written to vary with it.

179 SENATOR COHEN: If a standard benefit package is mandated in 1994, based on the list as it has been drawn this session for assurance, flexibility can't be allowed and at the same time maintain a floor. > Could we assume that the service line is a floor and either re-adopt or re-evaluate?

208 SENATOR HANNON: A floor and ceiling needs to be created and the language needs to be tied to the time of renewal.

237 POWELL: There are problems with trying to operate at two levels. > The first is the conceptual one and the other is at a very practical level which is plugging a service level concept into a health insurance system. Concerned about the practicality of this proposal.

260 SENATOR ROBERTS: What is the difference between health insurance

and service?

262 POWELL: Explained what the difference was.

290 There was further discussion about what the difference was between a practice and a service.

301 CHAIR SHOEMAKER: Most services will be covered, it will only be those uncommon services that will be in question. > SB 321 is goal setting mechaniSMfor the health insurance industry. > What is the best way to construct this for future legislators to move the line around and substituting procedures within the list? > How can this be developed so that it will work for the health insurance industry?

336 POWELL: You could set out dates that would change the policy. There will still be practical problems for people who are in the middle of receiving services.

340 SENATOR HAMBY: Could the insurance industry ease into an approach rather than having just one severe cut off line?

350 POWELL: The contracts are based on legal language and rules need to be defined now.

382 CHAIR SHOEMAKER: The other approach is to have a static plan that would be substantially similar, approved and funded by this legislature and deal with changes legislatively, as needed. > Another option would be to permit insurance companies to change their plans to be substantially similar to a changing basic plan.

403 POWELL: Need time to think these ideas out before making recommendations.

423 SENATOR ROBERTS: Why are Subsections a, b and c there (EXHIBIT A, pg. 1) when the Health Services Commission has already done that?

433 CHAIR SHOEMAKER: This SB 935 criteria, which calls for the private sector to develop plans substantially similar to the Medicaid plan rather than identical to it.

TAPE 98, SIDE A

010 SENATOR ROBERTS: This language (EXHIBIT A, (b), p. 1) is left too discretionary.

016 There was discussion about how this should be made consistent with SB 27. It was determined that (a), (b), (c) should be left out and leave "substantially similar" language.

029 MARK NELSON, NATIONAL ASSOCIATION OF SOCIAL WORKERS: Submitted and explained proposed amendments to SB 321 (EXHIBIT B).

045 SENATOR ROBERTS: What is the implication of Section 2(3), page 2 (EXHIBIT B)?

051 NELSON: When the Health Commission folds in the mental health, they want to be able to compare them to the statutory mandates for alcohol and drug dependency (ADD) and mental health (MH). > They want to avoid the repealing of those mandates by administrative action of the commission. > Explained the other amendments. > Nothing in SB 321 is

tied to the waiver. Uninsured people won't be served. Insured people will be denied the existing statutory mandates under policies developed under SB 321 . > There should be some language about what will occur if the waiver is not obtained.

088 There was discussion between Mr. Nelson and Senator Roberts about how to address the concern about the waiver language.

103 BRIAN DE LASHMUTT, OREGON NURSES ASSOCIATION: Unsure that the proposed solution would address the problem.

122 CHAIR SHOEMAKER: They are not mandating anything. Requesting the health insurance industry and the employers develop and offer a plan substantially similar to the prioritized list, then they would be released from the existing mandates.

139 DE LASHMUTT: The conceptual idea doesn't match with this language.

150 SENATOR COHEN: Do your amendments (EXHIBIT B) address the problem?

156 NELSON: These amendments specifically make it clear that the provider mandates as well as alcohol and drug mandates are in the statute. > The observation about not having the waiver language in was just made today after looking at both SB 321 and SB 1076.

170 SENATOR ROBERTS: It is not intended that any provision of this go into effect until the process has been completed and they have a waiver. If it were put in before the waiver, I wouldn't be able to support it.

181 SENATOR HANNON: A prototype is being established for the industry to try to create and if they do, they will be exempted from the mandates.

191 CHAIR SHOEMAKER: This doesn't waive all the mandates.

199 SENATOR ROBERTS: The mandated services under ORS 743.556, page 2, line 15 (EXHIBIT B) would allow an independent body to make recommendations. > Under SB 27, the legislature could not change that.

228 CHAIR SHOEMAKER: These amendments (EXHIBIT B) say that when the mental health services are fully integrated into the list which only happens once, then they would be substituted for the mental health mandates under ORS 743.556. > Are you satisfied with the mental health subcommittee list they have developed?

246 NELSON: They are satisfied with how they have been ranked but they are unsure about how they would integrate.

257 CHAIR SHOEMAKER: Other than the mental health mandates, which of those are below the line 585?

267 PAGE SIPES-METZLER, HEALTH SERVICES COMMISSION: They would be those relating to the jaw (TMJ). All others are above the line. > Without further direction from the legislation to integrate the mental health mandates, nothing will happen. > If they have recommendation from this legislation, they will have joint meetings between the full commission and mental health groups to discuss the comparability of the list to the current list. > The first draft to be integrated, hasn't been adopted, it hasn't been carefully reviewed. > This will be done with legislative direction.

310 SENATOR COHEN: Aren't we planning to direct them and how will we be doing that?

320 SIPES-METZLER: SB 44 does have this direction in it.

322 SENATOR COHEN: There are amendments to SB 44 but they are not there yet.

331 There was concern by the committee about whether or not the direction will be moving forward.

340 CHAIR SHOEMAKER: Could the committee direct the HSC to integrate the mental health services as they have been ranked, into the physical health services.

350 SENATOR COHEN: Without direction, they aren't going to do it.

363 SENATOR HANNON: Was AD &D AND MH left out of the original Health Care Commission (HCC) charge? Or did the commission at some point decide that they needed to fold into the rates for reimbursement? Has the commission ever reached the point where they would address that point? Did the commission ever think that this needed to be folded in?

381 SIPES-METZLER: SB 27 called for establishment of a sub committee composed of providers and consumers for MH and AD & D services evaluation. The commission found that they could be integrated.

394 SENATOR HANNON: Would this be adopted by the 1993 legislature for funding? Why couldn't a minimum floor issue be adopted contingent upon what will be rolled in? > Maybe amending this bill with too much specificity would be counter productive. > Does the HCC have a minimum standard?

418 SIPES -METZLER: No minimum standard of an integrated list until July, 199 2.

428 CHAIR SHOEMAKER: Would this be essential and very important?

429 SIPES-METZLER: Yes.

433 CHAIR SHOEMAKER: There is no reliable manner by which to determine how many of the mental health services would come above line 585.

TAPE 97, SIDE B

004 There was further discussion about integrating the mental health services further into the list. Proposed that Mark Nelson's recommendations be used to address the issue.

023 SIPES-METZLER: Went through list about which services mandates would be covered depending on how effectively they are treatable.

038 COOMBS: Tourette syndrome is relatively high on the list.

046 NELSON: The committee's confusion is an indication of the need to outline the folding in process. > The problem with SB 321 is the same as the one with SB 1076. > The fold in language is needed, the waiver problem is there.

066 SENATOR HANNON: There is no waiver problem with SB 321.

070 NELSON: When SB 27 and SB 935 started, it was under the auspices that they were embarking on this to deal with uninsured and rank health care modalities. > They were to assure that everyone in Oregon would have the same level of health insurance. > This discussion today is indicating that if a waiver is denied, nothing will change for the uninsured populations. It won't change the insurance for the covered Medicaid population, but everyone else who is already insured will be affected.

079 CHAIR SHOEMAKER: It is not a mandate, but an option.

080 There was further discussion about the comparison between SB 321 and SB 107 6 and whether or not they are tied to the waiver.

096 CHAIR SHOEMAKER: Changed the direction of the discussion to focus on SB 321 . > What is the concern about how SB 321 doesn't adequately protect providers?

104 DELASHMUTT: Legislation passed last session with similar non-discrimination language in it was interpreted differently by the insurance commissioner. > It needs to be specific enough so that the insurance commissioner wouldn't have as much discretion. Explained further.

134 CHAIR SHOEMAKER: Listing every mandated provider could exclude others. > It should be clear that Section 2(2) is intended to mean all licensed providers. > The distinction should be made based on the cost effectiveness.

152 DELASHMUTT: The concern is whether or not this does occur.

160 NELSON: Suggested that these mandates be left in and specifically reference the provider mandates.

177 SENATOR ROBERTS: What is the intent of Section 2(2), page 2 (EXHIBIT B). These mandates are saying that you can't exclude certain people who are acting within their scope of practice. The objective was to make it clear that if a person was licensed to practice, they shouldn't be excluded.

199 CHAIR SHOEMAKER: It eliminates the specific mandates and includes all the practitioners in a general manner. > Should the committee provide an all inclusive clause rather than a release?

214 CHUCK BENNETT, OREGON PSYCHOLOGICAL ASSOCIATION: Recommended that "whenever feasible" (EXHIBIT B, page 2, line 26 and page 3, line 20 and 21) be deleted. > Asked that this language be replaced with "when it becomes available".

246 BRUCE BISHOP, KAISER PERMANENTE: Requirements may exclude federally qualified HMO's. > Stemming from the concern of whether the Standard Benefits Package would be less than required under benefit law and; > If this were the case, they wouldn't be able to participate without jeopardizing their federal status. > The other concern is the implication that as an HMO, they would be obligated to reimburse any health care practitioner who provided services to their members when those services were provided within the practitioners scope of practice. > They are not in the business of reimbursing outside practitioners for

services provided.

279 CHAIR SHOEMAKER: What about including within your group all practitioners?

290 BISHOP: They provide full services They don't usually provide specific practitioners if they have them available to provide services. They take responsibility for every thing they are required to provide.

313 There was discussion about chiropractic services and how it would apply specifically.

324 SENATOR ROBERTS: How would this language affect your practices?

328 BISHOP: The concern from Section 2(2) (EXHIBIT B, pg. 2, line 10), is that it could be construed as requiring them to reimburse outside practitioners for services that they provided directly.

335 SENATOR ROBERTS: No one has suggested that.

348 BISHOP: It would be entirely inconsistent with their method of operation, but in the past legislative mandates have required them to do this.

356 SENATOR COHEN: What about deleting line 10 and 11, Section 2(2), (EXHIBIT B) beginning with "any".

369 BISHOP: Only if it is clear that they are not required to pay for outside services. > They would suggest that language specifying that nothing in this act shall be required to make an HMO offer a standard health benefit plan that is inconsistent with its basic method of operation, be included in SB 321.

406 The committee considered language to address the concerns expressed by Mr. Bishop.

TAPE 98, SIDE B

007 JOHN POWELL, BLUE CROSS/BLUE SHIELD AND HEALTH INSURANCE ASSOCIATION OF AMERICA: They have the same concerns that Mr. Bishop proposed whether it be through indemnity contracts or PPO's.

019 SENATOR COHEN: What is the difference? The indemnity plans that are fee for service don't have a gate keeper regulating the internal utilization.

023 POWELL: They do, they have several systems whereby referrals must be made in order for certain practitioners operating even within their scope of practice to be eligible for reimbursement and this would be an extreme departure from that.

029 CHAIR SHOEMAKER: Some indemnity plans do not permit reimbursement of certain licensed providers?

032 POWELL: Unless they are referred by a physician. Licensure in and of itself has a different meaning than reimbursement for a health insurance policy. Licensure comes about to control the ethical practices of those inside. > That license doesn't mean that the medical provider would necessarily follow certain managed care guidelines. > Section 4 of the bill requires that the Insurance Pool Governing Board develop a

standard health benefit plan.

042 CHAIR SHOEMAKER: No, the only change that Section 4 makes from existing law is that they will include a Standard Health Benefit plan.

048 POWELL: Concerned with "may" language, Section 1 of (EXHIBIT A).

050 The committee discussed how to address the language of "may" .

WORK SESSION ON SB 321

060 CHAIR SHOEMAKER: SB 321 should operate independently of the waiver.

070 SENATOR COHEN: Leave it as it is on that point.

074 SENATOR ROBERTS: Does this have any control over anything?

076 CHAIR SHOEMAKER: No, this is an enabling act, it is a goal. > Provider mandates to delete the specific recision of those mandates but simply provide that any approved standard health benefit plan must provide for payment to practitioners... in a cost effective manner. > Do they need to qualify the language to address concerns of HMO's?

098 SENATOR ROBERTS: What if it was referenced as a managed care program? > Can't have one rule for one and not the other.

118 CHAIR SHOEMAKER: Suggested that an approved managed care plan offering a standard health benefit plan can have within it a method of providing for payment to practitioners within the scope of their practice who offer cost effective services through the gate keeper. > If in practice they don't comply, the legislature will have re-address. > The language about not requiring an HMO to offer a standard benefit plan that is less than is necessary to comply with federal regulations is appropriate.

133 SENATOR ROBERTS: They don't have to because there isn't any ceiling.

137 The committee discussed further the proposed language and the changes made to the language to address earlier testimony.

177 MOTION:SENATOR COHEN moved the amendments adopted in concept and further moved the dash one amendments to SB 321.

188 SENATOR HANNON: Requests SB 321 in engrossed form it is not clear enough to comprehend at this point.

191 Discussion about Senator Hannon's request. Senator Shoemaker proposed that due to time constraints, a clear precise form would be made available to all members before it was voted on.

231 VOTE:In a roll call vote, the motion carried with Senator Hannon voting NAY.

WORK SESSION ON SB 593:

245 COOMBS: The only question that was left unanswered was whether or not Medicaid should stay responsible after placement and after the decree.

252 SENATOR COHEN: This determination should be made by each individual. > The impact statement (EXHIBIT C) which they now have, will allow the committee to move the bill.

263 SENATOR HANNON: What is the difference between assuming and taking from SB 539 , Section 2(5), page 2, line 5?

276 CHAIR SHOEMAKER: Assuming means taking.

279 MOTION:SENATOR HAMBY moved SB 593 to the floor with a {"do pass" recommendation"}.

VOTE: In a roll call vote, the motion carried with all members voting AYE. Senator Shoemaker will carry the bill.

290 CHAIR SHOEMAKER: Closed the work session on SB 593 and proposed the reconsideration of SB 321.

293 MOTION:CHAIR SHOEMAKER moved to reconsider the vote by which SB 321-1 was adopted.

VOTE:Hearing no objection, Chair Shoemaker so moved.

RECONSIDERING SB 321

297 CHAIR SHOEMAKER: Reconsidering SB 321 to discuss the folding in and pricing of mental health services. This would require that it go to Ways and Means because of the cost.

311 CHAIR SHOEMAKER: [QUOTE] We add to the bill a provision that would call upon the Health Services Commission to integrate mental health and drug and alcohol dependency services with the prioritized list and that include a pricing of those services through an actuarial study in the same manner as was done for the SB 27 list and that priced list then be returned to the 67th Legislative Assembly.

327 SENATOR ROBERTS: This will be difficult for Human Resources to include this within the $145 million budget.

332 SENATOR COHEN: There is no request that it be funded except for the actuarial study.

335 There was further discussion about the cost of the actuarial study and whether or not it is feasible with the amount of money budgeted.

375 SIPES-METZLER: The original budget included actuarial studies but because they did not anticipate doing any, the proposed budget proposed does not include the cost for actuarial study.

383 SENATOR COHEN: If no actuarial studies are being done, then what are your duties?

386 SENATOR HAMBY: How is the current $400,000 being used?

386 SIPES-METZLER: This will be used to revise the list to integrate the mental health to continue to update and explore new procedures.

390 SENATOR COHEN: This shouldn't be done until the mental health services are integrated. > If you are not ready to fold it in, then why

are they discussing revising the standard service list.

405 SIPES-METZLER: The original actuarial cost was $80,000, supplemented through OMAP by another $70,000 approximately. The Mental Health portion will be more challenging because mental health services are provided through limited caps.

TAPE 99, SIDE A

002 SENATOR COHEN: It is premature to discuss spending any of the $30 million on a list until it is complete and integrated.

008 SENATOR HANNON: If this study will require Ways and Means review and SB 321 was sent out for final passage, why not consider using SB 1194 that has a relating clause dealing with benefits ranked by the Health Services Commission, as a vehicle to take to Ways and Means rather than jeopardizing the integrity SB 321.

WORK SESSION ON SB 1194

019 MOTION:SENATOR HANNON moved to delete language in SB 1194 and insert the Mental Health and Alcohol and Drug Dependency language. DISCUSSION TO THE MOTION:

025 CHAIR SHOEMAKER: This won't work because the relating clause is wrong.

030 There was further discussion about how to change the language in SB 1194 to authorize and direct the use of funds. and whether or not SB 1194 should be used as a tool.

060 SENATOR COHEN: Proposed to make a motion to SB 1194 and that she would speak to Senator McCoy about the proposed amendments.

079 MOTION:SENATOR COHEN moved to strip out SB 1194-A and insert the language "Directs the Health Services Commission to integrate mental health, alcohol and chemical dependency services into the list of prioritized health services and return the integrated list, together with an actuarial report, to the Sixty-seventh Legislative Assembly". Further that SB 1194-A be referred to Ways and Means with a {"do pass" recommendation}.

083 VOTE:In a roll call vote, the motion carried with all members present voting AYE. Senators Hannon and Roberts were excused.

088 CHAIR SHOEMAKER: The meeting was adjourned at 5:00 p.m.

Submitted by: Reviewed by:

Guadalupe C. Ramirez Barbara Coombs AssistantAdministrator

EXHIBIT LOG:

A - Amendments to SB 321-1 - Staff - 3 pp. B- Amendments to SB 321-1, #2 - Nelson - 3 pp. C - Testimony on SB 593 - Cease - 4 pp.