

Healthcare & Medical Liability Reform Committee

Senator Carolyn Allen, Chairman



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HEALTHCARE & MEDICAL LIABILITY REFORM COMMITTEE

LEGISLATION ENACTED

burden of proof; emergency treatment. (S.B. 1018) – Chapter 110

Exempts physicians and hospitals that provide emergency treatment from liability for civil or other damages unless the elements of proof are established by clear and convincing evidence. Extends application of the existing clear and convincing evidence requirement in emergency labor and delivery cases to all emergency labor and delivery cases except those in which the patient's medical information is immediately, rather than reasonably, available to the physicians or health care facilities.

~~emergency medical services; records; confidentiality~~ (NOW: records; emergency medical services; confidentiality) (S.B. 1097) – Chapter 54

Directs the Department of Health Services (DHS) to notify emergency medical services personnel who are under investigation, at least 30 days before the date of a scheduled informal interview, of the right to submit a request to DHS for the name of the person who made the complaint and for documents relevant to the investigation. The person under investigation may request the information at least 10 days before the date of the interview. Requires DHS to release the complainant's name upon request unless DHS determines the release could result in substantial harm to any person or to the public health or safety. Requires DHS to also provide documents if requested, except as prohibited by state and federal privacy or confidentiality laws, and to redact personal identifying information. Prohibits persons who receive the information from copying or disseminating it except for the purpose of participating in the informal interview, an administrative proceeding or an appeal arising out of the investigation. Classifies unlawful copying or dissemination of the information as a class 3 misdemeanor.

biomedical research commission; continuation (S.B. 1100) – Chapter 55

Retroactive to July 1, 2009, the Arizona Biomedical Research Commission is continued until July 1, 2019.

~~ambulances; certificates of necessity~~ (NOW: eligibility determinations; AHCCCS.) (S.B. 1102/H.B. 2631) – Chapter 4 E

SEE COMMERCE & ECONOMIC DEVELOPMENT COMMITTEE.

partnership for nursing education (S.B. 1103) – Chapter 92

Extends the Arizona Partnership for Nursing Education Demonstration Project for five years, until June 30, 2015.

AHCCCS; SCHIP; application process (NOW: assisted living managers; nursing administrators)
(S.B. 1104) – Chapter 56

Eliminates statutory fee amounts charged by the Arizona Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers (Board) and allows the Board to establish fees by rule. Requires the Board to limit by rule the percentage it may increase a fee above the previously established amount. Permits the Board to assess a fee for reviewing an individual's request for continuing education credit hours and specifies that the fees for reviewing continuing education programs or credit hours are charged by the credit hour.

nursing board; omnibus (S.B. 1105) – Chapter 150

Makes changes to the Arizona State Board of Nursing (Board) statutes, including the following:

Board Membership – Modifies the composition of the Board by: 1) increasing the total number of Board members from nine to eleven; 2) increasing the number of registered nurse Board members from five to six, including at least one registered nurse practitioner or clinical nurse specialist; and 3) including a nursing assistant or nursing assistant educator as a Board member. Modifies certain Board member qualifications.

Board Powers and Duties – Among other powers and duties, allows the Board to: 1) publish advisory opinions on nursing education; 2) issue limited certificates; 3) provide education about Board functions; 4) grant retirement status upon request to eligible nurses; and 5) accept and spend federal monies and private grants, gifts, contributions and devises. Requires the Board to adopt rules for: 1) nursing program standards; 2) approval and reapproval of nursing programs and refresher courses; 3) approval of credential evaluation services; and 4) certification and qualification of clinical nurse specialists.

Executive Director Powers and Duties – Among other powers and duties, allows the Executive Director to: 1) issue and renew permanent and temporary licenses, certificates and prescribing and dispensing authority; 2) accept the voluntary surrender of a nursing program's approval; 3) dismiss a complaint, close complaints resolved through settlement and issue letters of concern; and 4) enter into stipulated agreements for the treatment, rehabilitation and monitoring of a licensee's or certificate holder's abuse or misuse of a chemical substance. Authority is contingent in some cases on the issuance of a substantive policy statement by the Board. Requires the Executive Director to approve nursing assistant training programs.

Examinations, Licensure and License Renewal – Allows the Board to require additional education from a nursing licensure applicant if the applicant fails to pass the nursing exam within two years of completing a nursing program. Also allows the Board to require the retesting of licensure applicants if the security of the exam is compromised or the credibility of the results is in question. Clarifies the circumstances in which the Board may issue a temporary license or certificate. Requires any international license held by a graduate of an international nursing program who is applying for licensure in Arizona to be in good standing and of equivalent status to a license issued in the United States. Advances by three months the calendar deadlines on which license renewals and renewal fees are due, late renewal penalty fees are assessed and nonrenewed licenses expire.

Investigations and Disciplinary Action – Allows the Board, its agents or employees to enter the premises of a regulated party to inspect and copy documents, reports or other specified materials during an investigation. Authorizes the Board to issue a subpoena for the purpose of requiring the attendance and testimony of witnesses or the production of documents or other physical evidence. A person may petition the Board within five days to revoke, limit or modify the subpoena. Permits the Board to issue a cease and desist order or take disciplinary action if investigation results show a regulated party committed an act of unprofessional conduct or violated law, Board rules or Board orders.

mental health services; court-ordered treatment (S.B. 1152) – Chapter 153

SEE JUDICIARY COMMITTEE.

~~trust lands; conservation; technical correction~~ (NOW: elections; hospital districts) (S.B. 1155) – Chapter 7 E

SEE PUBLIC SAFETY & HUMAN SERVICES COMMITTEE.

~~illegal aliens; enforcement; trespassing~~ (NOW: performance of abortion; non-physician; prohibition) (S.B. 1175) – Chapter 178

SEE PUBLIC SAFETY & HUMAN SERVICES COMMITTEE.

special health care districts; terms (S.B. 1330) – Chapter 115

Requires special health care districts with a population of less than two million persons to elect members of the district's board of directors to four year, nonstaggered terms. Conforms the election schedule for special health care districts with current statewide consolidated election dates.

afflicted persons; orders for transportation (S.B. 1336) – Chapter 157

Clarifies that a sheriff or law enforcement agency is not required to transport a person afflicted with tuberculosis to a designated health institution or facility, but may be required to oversee and ensure that transportation is provided by an appropriate entity. Requires a sheriff or law enforcement agency or officer to maintain custody of the afflicted person until the afflicted person is delivered to the designated institution or facility. Expands the list of persons or entities able to transport an afflicted person to include a physician, ambulance personnel, an ambulance service, guardian, conservator, parent, custodian, relative or friend.

dental assistants; community oral health (S.B. 1400) – Chapter 188

Permits affiliated dental hygienists to perform dental hygiene services on adults, in addition to children, in affiliated practice settings.

Adds the following requirements to the written affiliated practice relationship between a dentist and dental hygienist: 1) patients must be seen by a licensed dentist within 12 months after initial treatment by a dental hygienist; 2) patients who are 65 years of age or older must be seen by a licensed dentist after treatment; 3) a dental hygienist is prohibited from providing further services

until a patient receives an examination and treatment by a licensed dentist; 4) if a patient presents with a complex medical history or medication regimen, the affiliated dental hygienist must consult with the affiliated dentist prior to providing treatment; and 5) patients must be informed that care provided by an affiliated dental hygienist cannot be billed or reimbursed as a dental examination.

Requires the patient to be directed to the affiliated dentist and the affiliated dentist to make any necessary referrals to other licensed dentists. Requires affiliated dentists to adopt standing orders that address the populations that may be treated by the affiliated dental hygienist and procedures that provide timely referral of patients. A dentist to whom a patient is referred must be geographically available to see the patient.

community colleges; bonds; technical correction (NOW: outdoor behavioral health; definition; requirements) (H.B. 2078) – Chapter 133 E

An emergency measure, effective July 13, 2009, that grants the Department of Health Services (DHS) the authority to license outdoor behavioral health care programs. Defines an *outdoor behavioral health care program* as a program that provides behavioral health services in an outdoor environment, as opposed to in a health care institution with facilities. Specifies that an outdoor behavioral health care program is subject to the same licensure regulations as a Level 2 behavioral health residential facility, with the exception of the facility standards, and must comply with national accreditation and personnel fingerprinting and background check requirements. Allows DHS to adopt rules specifying additional facility, equipment and sanitation standards. Permits DHS and other designated enforcement authorities to enter any area used by an outdoor behavioral health care program to inspect the premises and enforce compliance. Stipulates that government-operated programs, licensed day care centers, recreational outdoor activities and outdoor youth programs licensed by the Department of Economic Security are not subject to licensure as an outdoor behavioral health care program.

insurance; network plan; definition (H.B. 2145) – Chapter 39

SEE FINANCE COMMITTEE.

board of podiatry examiners; continuation (H.B. 2159) – Chapter 40

Retroactive to July 1, 2009, the Arizona State Board of Podiatry Examiners is continued until July 1, 2011.

pharmacists; administration of immunizations (NOW: administration of immunizations; pharmacists) (H.B. 2164) – Chapter 41

Allows pharmacists certified by the Board of Pharmacy (Board) to administer specified immunizations to adults without a prescription order. The pharmacist may also administer emergency medication to manage an acute allergic reaction resulting from an immunization. Specifies records and reporting requirements by requiring the pharmacist to: 1) report administration of an immunization to the patient's primary care provider, if available, and the Department of Health Services (DHS); 2) maintain a record of the immunization; and 3) participate in any federal reporting system. Requires DHS to establish and maintain a list of immunizations that may be administered by prescription only and to review new immunizations to determine if they should be added to the list.

Requires the Board to develop rules and protocols for the administration of immunizations without a prescription. An Immunizations and Vaccines Advisory Committee (Advisory Committee) is established to assist the Board in developing rules and protocols and to make recommendations to DHS regarding the list of prescription-only immunizations. The Advisory Committee is repealed on January 1, 2012.

Permits DHS to release, from the Child Immunization Reporting System (System), the identifying information of an adult whose information is contained in the System, upon request by the adult.

psychologist examiners board; omnibus (H.B. 2206) – Chapter 160

Makes changes to the Arizona Board of Psychologist Examiners (Board) statutes including the following:

Education and Training Requirements – Modifies the education and training requirements for psychology licensure by: 1) allowing up to 1,500 hours of pre-internship supervised experiences to count toward the required total of 3,000 hours of supervised experiences; 2) specifying the acceptable activities and types of supervision that must be included in supervised pre-internship experiences, as well as the percentage of hours that must be dedicated to each; 3) limiting face-to-face supervision via visual telecommunication to 20 percent of the total face-to-face supervision hours; and 4) continuing to allow, until September 1, 2010, specific alternative qualifications to count toward licensure requirements for 1,500 hours of postdoctoral supervised experiences.

Board Procedures – Prohibits the Board from considering a complaint against a judicially appointed psychologist unless the court first finds a substantial basis for referring the complaint to the Board. Permits a psychologist licensed outside of Arizona to practice in Arizona for more than the current limit of 20 days if the psychologist is assisting in public service related to a disaster acknowledged by the Board. Allows licensure applicants and licensees to pay fees by credit, debit or charge card or by electronic funds transfer.

Substance Abuse Rehabilitation – Codifies the process whereby the Board and a psychologist may enter into a consent agreement for substance abuse treatment or rehabilitation if the psychologist is impaired by alcohol or illegal substances.

behavior analysts (H.B. 2207) – Chapter 161

Establishes clarifying administrative authority and procedures that enable the Board of Psychologist Examiners (Board) to regulate and license behavior analysts. Authorizes the Board to accept gifts, grants and other contributions from any public or private source. Stipulates that unless the Board receives \$36,000 by June 30, 2010, for the start-up costs of regulation, the requirement for the Board to regulate behavior analysts is repealed. Clarifies that monies for the licensure and regulation of behavior analysts are separate from monies for the licensure and regulation of psychologists and creates separate accounts within the Board of Psychologist Examiners Fund for this purpose. Exempts the Board from rulemaking requirements for a total of three years, rather than two. Delays the implementation of licensure requirements by the Board for behavior analysts by one year, until January 1, 2011.

Clarifies that the Board may issue a reciprocal license to a behavior analyst who is licensed or certified as a behavior analyst by another state if the other state's license or certificate requirements are substantially equivalent to the requirements in Arizona. Specifies that the Board may not consider a complaint against a judicially appointed behavior analyst to present a charge of unprofessional conduct unless the court first finds that there is a substantial basis for referring the complaint to the Board. Establishes falsely representing oneself as a psychologist as an act of unprofessional conduct by a behavior analyst.

certified nursing assistants; pilot program (H.B. 2283) – Chapter 136

Retroactive to December 1, 2008, continues the Medication Technician Pilot Program for two years, until October 1, 2011.

health insurance; small business coverage (H.B. 2323) – Chapter 84

SEE FINANCE COMMITTEE

health insurance; individuals; coverage exemptions (H.B. 2324/S.B. 1325) – Chapter 9 W/S

SEE FINANCE COMMITTEE.

automated external defibrillators (H.B. 2399) – Chapter 47

Modifies protocols related to the use, deployment and oversight of automated external defibrillators (AEDs). Removes the requirement for a physician who has entered into an agreement with a person or entity who acquired an AED to oversee all aspects of public access to defibrillation, such as training, emergency medical services coordination, communications, protocols and AED deployment strategies. The person or entity who acquires an AED is required to submit a written report to the Bureau of Emergency Medical Services and Trauma Systems in the Department of Health Services, rather than the overseeing physician, within five days after the AED's use, and must ensure that the AED is maintained in good working order. Removes the restriction that limits the use of an AED to trained responders and instead allows lay persons and trained users to use an AED. A trained user who deploys an AED is not subject to civil liability for any personal injury that results from any act or omission that does not amount to willful misconduct or gross negligence.

partial-birth abortions; definition (H.B. 2400/S.B. 1138) – Chapter 170

SEE PUBLIC SAFETY & HUMAN SERVICES COMMITTEE.

abortion (H.B. 2564/S.B. 1206) – Chapter 172

SEE PUBLIC SAFETY & HUMAN SERVICES COMMITTEE.

~~living wills; health care directives~~ (NOW: health care directives; guardian decision) (H.B. 2616/S.B. 1448) – Chapter 147

SEE PUBLIC SAFETY & HUMAN SERVICES COMMITTEE.