

ARIZONA HOUSE OF REPRESENTATIVES
Forty-ninth Legislature –Second Regular Session

COMMITTEE ON HEALTH AND HUMAN SERVICES

Minutes of Meeting
Wednesday, February 24, 2010
House Hearing Room 4 -- 9:00 a.m.

Chairman Barto called the meeting to order at 9:03 a.m. and roll call was taken by the secretary.

Members Present

Mr. Ableser	Mr. Bradley	Mr. Murphy
Mr. Antenori	Mrs. Goodale	Mr. Court, Vice-Chairman
Mr. Boone	Mr. Lopes	Mrs. Barto, Chairman

Members Absent

None

Committee Action

HB2080 – DP (8-0-0-1)	HB2410 – DPA S/E (8-0-0-1)
HB2022 – DPA S/E (6-0-0-3)	HB2659 – HELD
HB2124 – DPA S/E (9-0-0-0)	HB2670 – DPA (5-4-0-0)

CONSIDERATION OF BILLS

HB2659 – division of developmental disabilities – HELD

Chairman Barto announced that HB2659 will be held.

HB2022 – technical correction; public health – DO PASS AMENDED S/E
S/E: hearing aid dispensers; continuing education

Vice-Chairman Court moved that HB2022 do pass.

Vice-Chairman Court moved that the Barto three-page strike-everything amendment to HB2022 dated 2/18/10 (Attachment 1) be adopted.

Ingrid Garvey, Majority Research Analyst, explained that the strike-everything amendment HB2022 (Attachment 1) adds additional courses on topics that qualify for the continuing education requirements for individuals who dispense hearing aids (Attachment 2).

Steve Barclay, Lobbyist, Hearing Healthcare Providers of Arizona, in favor of the strike-everything amendment to HB2022, stated that due to a moratorium on the rule-making process, it was not possible to change the rules for continuing education requirements so a certain portion of hours is not directly related to the dispensing of hearing aids, so this bill seeks to do so in statute. In response to a question, he advised that a significant percentage of complaints involving hearing aid dispensers are unrelated to dispensing hearing aids; they are related to lack of good business practices, so more continuing education is needed in that area.

Names of persons neutral on the strike-everything amendment to HB2022 who did not speak:
Duane Huffman, Chief Legislative Liaison, Arizona Department of Health Services
Raymond Kronenbitter, Registered Nurse, Arizona Nurses Association

Question was called on the motion that that the Barto three-page strike-everything amendment to HB2022 dated 2/18/10 (Attachment 1) be adopted. The motion carried.

Vice-Chairman Court moved that HB2022 as amended do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 3).

HB2124 – urgent care centers; inspections – DO PASS AMENDED S/E
S/E: same subject

Vice-Chairman Court moved that HB2124 do pass.

Vice-Chairman Court moved that the Barto 12-page strike-everything amendment to HB2124 dated 2/22/10 (Attachment 4) be adopted.

Vice-Chairman Court moved that the Barto two-line amendment to the strike-everything amendment to HB2124 dated 2/23/10 (Attachment 5) be adopted.

Ingrid Garvey, Majority Research Analyst, explained that the strike-everything amendment to HB2124 (Attachment 4) allows an outpatient treatment center, except for an outpatient treatment center that provides dialysis services, to begin operating before an initial license inspection by the Department of Health Services (DHS) when the appropriate applications and documents have been submitted (Attachment 6). The amendment to the strike-everything amendment specifies that a facility that performs abortion procedures is not eligible to begin operating prior to an inspection by DHS (Attachment 5).

Mr. Lopes asked why renal dialysis and abortions are excluded from the temporary license. Chairman Barto, sponsor, stated that surgeries occur in the case of abortions so it is an important exception to have. She is not sure about renal dialysis.

Mr. Lopes asked if the category of outpatient treatment centers includes outpatient surgery centers. Ms. Garvey said she does not believe so, but she will check.

Chairman Barto stated that outpatient treatment centers waiting to be licensed are caught in limbo and lose money. The intent of the strike-everything amendment is to allow businesses to open without waiting for an inspection by DHS, but also keep the businesses accountable.

Susie Stevens, Lobbyist, Ambulatory & Urgent Care Association of Arizona, spoke in support of the strike-everything amendment to HB2124. She related that Urgent Care Centers must have a certificate of occupancy and be ready to open their doors, so staff is already being paid. The statute allows up to 120 days for DHS to perform an inspection. The last few clients reported that it took about 45 days; one woman waited 96 days. It is very costly when the doors cannot be opened and patients cannot be seen. The strike-everything amendment allows for a temporary license, as long as the business submits policies and procedures, to open its doors and DHS can inspect sometime after that. In response to questions, she stated that uninsured patients have to pay cash. Members of the Association do not perform surgery, renal dialysis or abortions.

Duane Huffman, Chief Legislative Liaison, Arizona Department of Health Services (DHS), neutral on the strike-everything amendment to HB2124, advised that outpatient surgical centers are different than outpatient treatment centers. He is not sure if surgical procedures can be done in an outpatient treatment center, but if so, it would be relatively low grade surgery and non-invasive. DHS suggested that dialysis not be included for this temporary license because of the sensitive nature of renal dialysis and to ensure that the public health is protected. He added that outpatient treatment centers, including Urgent Care Centers, are relatively low risk to public health. This is a trial to see how the industry will perform.

He related to Mr. Lopes that there currently are outpatient treatment centers that perform renal dialysis and abortions, but not both at the same facility.

Mr. Lopes asked if this is intended to be permanent or temporary. Chairman Barto responded that it will probably depend on future finances. She does not see it becoming permanent, but a termination date is not included.

Vice-Chairman Court announced the names of those who signed up in support of the strike-everything amendment to HB2124 but did not speak:

Richard Bitner, Legislative Counsel, Arizona College of Emergency Physicians

Steve Barclay, Lobbyist, CIGNA HealthCare of Arizona, Incorporated

David Landrith, Vice President of Policy & Political Affairs, Arizona Medical Association

Barbara Fanning, Legislative Liaison, Arizona Hospital and Healthcare Association

Vice-Chairman Court announced the names of those who signed up as neutral on the strike-everything amendment to HB2124 but did not speak:

Raymond Kronenbitter, Registered Nurse, Arizona Nurses Association

Question was called on the motion that the Barto two-line amendment to the strike-everything amendment to HB2124 dated 2/23/10 (Attachment 5) be adopted. The motion carried.

Vice-Chairman Court moved that the Barto 12-page strike-everything amendment to HB2124 dated 2/22/10 (Attachment 4) as amended be adopted. The motion carried.

Vice-Chairman Court moved that HB2124 as amended do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 7).

HB2670 – nurses; nursing assistants; continuing education – DO PASS AMENDED

Vice-Chairman Court moved that HB2670 do pass.

Vice-Chairman Court moved that the Bradley three-page amendment to HB2670 dated 2/23/10 (Attachment 8) be adopted.

Mr. Bradley moved that the Bradley three-page amendment to HB2670 dated 2/23/10 (Attachment 8) be amended as follows:

Page 3, line 13, strike “state general fund” and insert “state board of nursing fund established by Section 32-1611 Arizona Revised Statutes”

Gina Kash, Majority Assistant Research Analyst, explained that HB2670 requires registered nurses (RNs), licensed practical nurses (LPNs) and certified nursing assistants (CNAs) to complete a specified amount of continuing education (CE) in order to be eligible for license and certificate renewal (Attachment 9). The amendment to HB2670 contains the following provisions (Attachment 8):

- Establishes that a minimum of 20 hours of CE or its equivalent as prescribed by the State Board of Nursing shall be completed by licensed nurses.
- Provides that a minimum of 12 hours of continuing education or its equivalent as prescribed by the Board shall be completed by CNAs.
- Stipulates that licensed nursing applicants and CNAs shall submit proof of having completed CE requirements.
- Requires the Board to appoint an advisory committee and outlines the committee’s duties.
- Exempts the Board from rulemaking and appropriates \$152,891 and two full-time equivalent positions from the State Board of Nursing Fund in FY 2010-2011 to the Board.
- Exempts the appropriation from lapsing.

Representative Matt Heinz, sponsor, stated that he was approached several months ago by a veteran nurse at the Tucson Medical Center who said she wishes there were some CE requirements for nurses. She was concerned that not having it could result in injuries to patients and expected that it would help younger nurses keep up. He said 22 other professions in the state have some kind of basic CE requirements, noting that 960 practice hours is the current practice for renewal of nursing licenses. He said he believes this needs to be codified and approved by the State Board of Nursing. In response to a question, he related that some studies show that CE may not have an effect and some studies show there is a positive impact.

Mr. Antenori stated that he has seen the remarkable effects of providing CE to paramedics every two years and bringing them up to date with medical changes.

Mr. Boone wondered how implementation of this program will impact the nursing shortage.

Joyce Benjamin, Executive Director, Arizona Nurses Association, opposed HB2670. She said she appreciates working with Representative Heinz on the amendments, but she still has objections because of lack of evidence that continuing education validates competency for licensure, the bill does not provide for due process, and the added administrative burden on the State Board of Nursing. In response to questions, she indicated that there are other ways competency can be validated and it does not have to be regulated by the State Board. Employers already require a certain amount of CE, and many nurses are certified and required to have a significant amount of CE.

Mr. Bradley stated that he is concerned about the nurse working in an unsupervised facility who gets the hours of practice, but does not have the time or resources to keep up.

Ms. Benjamin stated that she will work with Representative Heinz on expanding the Study Committee and strategies that the Institute of Medicine deems as having merit, as well as proper oversight and funding for the State Board.

Mr. Lopes stated that the National Council of Boards of Nursing and the Institute of Medicine recommend the CE approach much like Arizona has now, moving away from the strict hours proposed in this legislation. Ms. Benjamin responded that the Institute of Medicine is looking at newer up-to-date strategies because there has not been scientific evidence that CE validates competence. The National Council of Boards also recognizes that practice hours are better at validating competence than CE.

In response to Mr. Boone, Ms. Benjamin stated that she hears from new graduates every day who cannot find jobs, even in hospitals. Nurses in hospitals who were working on call or part-time have spouses who lost their job, so now they want to work full-time, nurses are moving in from other states, and some retired nurses are going back to work. There is still a significant nursing shortage, especially in rural areas of the state. She is concerned about due process because of concern about what happens to an experienced nurse who does not get the CE requirements and is removed from an environment where there is a nursing shortage. Also, there are not enough bachelor's and master's prepared nurses to teach students in the classroom, which she will work on with Representative Heinz.

Mr. Heinz noted that there is an appropriation in the bill, part of the intent of the work group is to avoid blindly choosing a number to define continuing competency in the nursing profession, and he has no problem with working on due process language.

Chairman Barto wondered if the requirements employers already demand of staff are adequate and the Nursing Board should deal with only disciplinary and legal issues. She said she is concerned about adding more work to a Board that is already overstressed. Discussion followed.

Vice-Chairman Court announced the names of those who signed up in support of HB2670 but did not speak:

Don Isaacson, representing Aging Services of Arizona

Sally Constantine, Registered Nurse, representing self
Judy Rich, President/Chief Executive Officer, Tucson Medical Center

Vice-Chairman Court announced the names of those who signed up in opposition to HB2670 but did not speak:

Raymond Kronenbitter, Registered Nurse, Arizona Nurses Association
Mary Griffith, Registered Nurse; Director, Legislation, Arizona Nurses Association

Vice-Chairman Court announced the names of those who signed up as neutral on HB2670 but did not speak:

Gregory Harris, Lobbyist, Arizona State Board of Nursing

Question was called on the motion that the Bradley three-page amendment to HB2670 dated 2/23/10 (Attachment 8) be amended as follows:

**Page 3, line 13, strike “state general fund” and insert “state board of nursing fund established by Section 32-16ll Arizona Revised Statutes”
The motion carried.**

Vice-Chairman Court moved that the Bradley three-page amendment to HB2670 dated 2/23/10 (Attachment 8) as amended be adopted. The motion carried.

Vice-Chairman Court moved that HB2670 as amended do pass. The motion carried by a roll call vote of 5-4-0-0 (Attachment 10).

HB2080 – pupils with chronic health problems – DO PASS

Vice-Chairman Court moved that HB2080 do pass.

Desiree Baumer, Majority Staff Intern, explained that HB2080 expands the types of health professionals who may certify that a pupil has a chronic health problem (Attachment 11).

Representative David Schapira, sponsor, stated that a constituent was told by the school district that she had to take her son to a different doctor than the chiropractor who was treating him for back problems in order to be certified as a pupil with a chronic health problem. This bill allows a parent the flexibility to take their child to the medical professional of their choice. An amendment in the Education Committee adds chiropractors to the list of health professionals who may certify that a child has a chronic health problem.

Mr. Murphy asked if the bill could be expanded so a licensed medical professional can make the certification rather than having to list specific specialties. Mr. Schapira replied that was the original version but that part of statute also licenses veterinarians, massage therapists, etc., so the medical professionals that deal with humans had to be identified, then Members had problems with some of those professions. Representative Rich Crandall asked him to strip the bill down to bare bones and add chiropractors in the Education Committee. During Committee of the Whole he plans to offer amendments for each medical professional so Members can decide which should be included.

Mr. Lopes suggested using primary care providers, which is defined in statute. Mr. Schapira replied that these are specialists such as podiatrists who are not considered PCPs.

Mr. Lopes asked how the education system defines pupils with chronic health problems. Mr. Schapira replied that the education system does not; it is under the purview of the medical health professional.

Vice-Chairman Court announced the names of those who signed up in support of HB2080 but did not speak:

Raymond Kronenbitter, Registered Nurse, Arizona Nurses Association

Mary Griffith, Registered Nurse; Director, Legislation Arizona Nurses Association

Question was called on the motion that HB2080 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 12).

HB2410 – chiropractic board; personnel; civil immunity – DO PASS AMENDED S/E
S/E: public benefits; income computing exclusion

Vice-Chairman Court moved that HB2410 do pass.

Vice-Chairman Court moved that the Antenori 20-line strike-everything amendment to HB2410 dated 2/16/10 (Attachment 13) be adopted.

Ingrid Garvey, Majority Research Analyst, explained that the strike-everything amendment to HB2410 (Attachment 13) exempts any amount received by an applicant or beneficiary from the Uniformed Services Survivor Benefit Plan or the Reserve Component Survivor Benefit Plan from the income computation for public benefits (Attachment 14).

Mr. Antenori, sponsor, stated that this measure will apply to a limited population because of the specific criteria for eligibility. It will allow a constituent, a retired Air Force Lieutenant Colonel who has a severely disabled son, to transfer his survivor benefit to his son upon his death and the death of his wife, and the son will not be taken off the Arizona Health Care Cost Containment System (AHCCCS). He added that AHCCCS asked for a conditional clause upon approval by the federal government.

Jennifer Carusetta, Chief Legislative Liaison, Arizona Health Care Cost Containment System (AHCCCS), neutral on HB2410, stated that she is willing to work with Representative Antenori on an amendment. Income exclusions are listed in federal statute, so approval will be needed from the federal government.

Vice-Chairman Court announced the names of those who signed up as neutral on HB2410 but did not speak:

Raymond Kronenbitter, Registered Nurse, Arizona Nurses Association

Question was called on the motion that the Antenori 20-line strike-everything amendment to HB2410 dated 2/16/10 (Attachment 13) be adopted. The motion carried.

Vice-Chairman Court moved that HB2410 as amended do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 15).

Without objection, the meeting adjourned at 11:03 a.m.

Linda Taylor, Committee Secretary
March 16, 2010

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)