

ARIZONA HOUSE OF REPRESENTATIVES  
Fiftieth Legislature –First Regular Session

**COMMITTEE ON HEALTH AND HUMAN SERVICES**

Minutes of Meeting  
Wednesday, March 9, 2011  
House Hearing Room 4 -- 10:00 a.m.

Chairman Ash called the meeting to order at 10:04 a.m. and roll call was taken by the secretary.

**Members Present**

Mrs. Barton  
Mrs. Brophy McGee  
Mrs. Gonzales

Mr. Heinz  
Ms. Hobbs  
Mrs. Judd

Mrs. Yee  
Mrs. Carter, Vice-Chairman  
Mr. Ash, Chairman

**Members Absent**

None

**Committee Action**

SB1033 - DP (8-0-0-1)  
SB1118 - DP (8-0-0-1)  
SB1119 - DPA (8-0-0-1)

SB1298 - DP (7-0-0-2)  
SB1429 - DP (8-0-0-1)  
SB1592 - DP (6-2-0-1)

Chairman Ash recognized guests in the audience from the Academy of Family Physicians.

**CONSIDERATION OF BILLS**

**SB1592 - health care Compact; funding - DO PASS**

**Vice-Chairman Carter moved that SB1592 do pass.**

Ingrid Garvey, Majority Research Analyst, explained that SB1592 authorizes and directs the Governor to enter into a Health Care Compact on behalf of Arizona with any state lawfully joined in the Compact (Attachment 1).

Mr. Heinz asked how SB1592 dovetails with the provision in the federal health care reform bill (Affordable Care Act) to allow states to enter into Compacts for insurance purposes and under what circumstances states will seek Congressional approval, giving them the ability to suspend federal law.

Ms. Garvey responded that in order for any Compact to go into effect, it has to be approved by Congress.

Senator Nancy Barto, sponsor, conveyed that SB1592 is an agreement between participating states that restores authority and responsibility for health care regulation to member states, making it possible for Arizonans to exercise greater control over their health care rather than having to apply for waivers to make needed improvements to existing programs. Who and what is covered, as well as the level of regulation, is determined by each member state after the Compact is ratified. Each member state's health care dollars are based on 2010 health care spending and adjusted every year according to that state's population growth and inflation. Funding is similar to a block grant to be used as each state deems appropriate to meet health care needs. A state may decide not to change anything and abide by current federal law, change the health care program a little bit, or a lot. Each state acts independently and has no authority over another state's policy decisions.

She further explained that member states can only suspend federal law regarding health care by expressly invoking the authority under the Compact to do so; it does not happen automatically. At least two states are required to join the Compact before it becomes effective, and the Compact must receive Congressional and Presidential consent before it becomes effective. A state may withdraw from the Compact by enacting a law to that effect. She stated that health care spending will trend downward because medical inflation is not part of the funding formula; it is only based on population growth and inflation.

In response to questions, Senator Barto stated that the authority to supersede federal law is given in the U.S. Constitution when Compacts are enacted. Not all Compacts require Congressional approval. If there is a criminal element of enforcement, consent by Congress is not required, but in this case, it is needed. She stated that as part of the Compact, the Interstate Advisory Health Care Commission must exist. It does not have a lot of authority, but plays an administrative role and serves at the pleasure of the states. At this point, two other states are moving forward with these Compacts and about 30 states are in discussions.

In response to Mr. Heinz in regard to how SB1592 dovetails with federal health care reform, Senator Barto indicated she is not sure the two would intersect. Allowing private insurance across state lines is more of a private enterprise, but this bill addresses public dollars with the Compact.

Mr. Heinz asked how likely it is that Congress will consent to the Compact. Senator Barto answered that it may not be likely right away, but this legislation is aspirational and meant to move the conversation in the way many Americans want. She surmised that it is more likely that approval will be obtained as more and more states become involved in the discussion and understand that it may be possible to provide better health care for the state than a "one size fits all" type of Medicaid program that states currently have if more flexibility is allowed.

Mr. Heinz asked if Medicaid dollars will be eliminated and turned into a state-level decision-making process where the eligibility level could be changed. Senator Barto answered that there is nothing in the Compact that says any changes have to be made, and she does not anticipate Arizona moving quickly to change anything in Medicaid; however, it may be possible to

streamline and improve certain policies in those areas that would be more difficult to do on a national basis.

Dr. Eric Novack, representing self, spoke in favor of SB1592. He said under the Affordable Care Act, beginning in 2017, the states have increased flexibility to change things; however, it is within a prescribed set of parameters that the federal government has not yet developed. There is nothing to prevent regulators at the federal level from changing that. Regarding whether there is a conflict, he said he believes there is to a certain degree, but there are currently over 200 Compacts existing across the country. The Health Care Compact, once approved by Congress, will put Arizona and all member states on a more equal footing with the federal government in relation to health care regulation. The Compact provides a constitutional pathway for Arizona to control health care spending and enact policies that are beneficial for the citizens. He urged the Members to vote in support of SB1592 because he believes health care decisions are better made closer to patients and families; the state level is closer than officials in Washington, D.C.

In response to questions, Dr. Novack indicated that there is an opportunity under the Compact to create more flexibility to make sure the maximum amount of care is available for people in the state that need it the most. He said an Exchange, for which Arizona accepted funding that is required beginning January 2014 under federal health care reform, could still exist. He contended that national health care spending is unsustainable. The Compact has a block grant component that, with Welfare Reform in the late 1990s, significantly changed the trajectory of the number of people on different kinds of assistance and has been a very successful set of reforms. It is a piece of the puzzle to solve the unending and unremitting growth of health care expenditures.

Vice-Chairman Carter announced the names of those who signed up in support of SB1592 but did not speak:

Farrell Quinlan, State Director, National Federation of Independent Business

Jose Borrajero, representing self

Heather Bernacki, Government Relations Associate, East Valley Chambers of Commerce Alliance

Dave Kopp, Manager, Americans for Prosperity

Tom Jenney, Arizona Director, Americans for Prosperity

**Question was called on the motion that SB1592 do pass. The motion carried by a roll call vote of 6-2-0-1 (Attachment 2).**

### **SB1033 - optometry board; omnibus - DO PASS**

**Vice-Chairman Carter moved that SB1033 do pass.**

Ingrid Garvey, Majority Research Analyst, explained that SB1033 makes a variety of changes to the optometry statutes (Attachment 3).

Senator Nancy Barto, sponsor, stated that SB1033 is a good compromise between optometrists and ophthalmologists and there is no opposition to the bill.

Norman Moore, Attorney, Arizona Optometric Association, spoke in favor of SB1033. He acknowledged that there is agreement between optometrists and ophthalmologists, which does not often occur. He stated that one of the benefits of having a prescription for a nonsteroidal anti-inflammatory agent (NSAID) from an optometrist as opposed to over-the-counter medication is that a pharmacist will be able to track the prescription to see if there are any side effects with other medications a patient is taking. Forty-three other states allow optometrists to prescribe NSAIDs. He said the Board of Optometry currently has six members with four optometrists, one doctor, and a public member, but it is sometimes difficult to obtain a quorum because four members out of the six are needed. SB1033 increases the membership to seven by adding one more optometrist, but the quorum is still four. It also makes technical and minor conforming changes.

Vice-Chairman Carter announced the names of those who signed up as neutral on SB1033 but did not speak:

Barbara Meaney, Arizona Ophthalmological Society

Vice-Chairman Carter announced the names of those who signed up in support of SB1033 but did not speak:

Don Isaacson, Arizona Optometric Association

Dr. Stacey Meier, Arizona Optometric Association

Dr. Annette Hanian, Arizona Optometric Association

**Question was called on the motion that SB1033 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 4).**

### **SB1119 - naturopathic medicine; nutrients - DO PASS AMENDED**

**Vice-Chairman Carter moved that SB1119 do pass.**

**Vice-Chairman moved that the Ash three-line amendment to SB1119 dated 2/25/11 (Attachment 5) be adopted.**

Jessica Gordon, Majority Intern, explained that SB1119 requires the Naturopathic Physicians Medical Board to adopt rules allowing for the safe administration of intravenous nutrients (Attachment 6). The three-line amendment to SB1119 states that a compound nutrient must be supplied by a pharmacy licensed by the State Board of Pharmacy (Attachment 5).

Mark Barnes, Arizona Naturopathic Medical Association, spoke in favor of SB1119. He stated that this was a subject of a sunrise hearing in December 2010. Currently, naturopathic physicians are authorized to administer vitamins and minerals through intravenous (IV) method. This bill slightly expands the scope of practice by allowing nutrients to be administered by IV method. Some issues arose during the sunrise process, so he worked with the Arizona Medical Association and an amendment was added in the Senate to include regulatory oversight by the Naturopathic Medical Board. The Pharmacy Board made a suggestion, which the amendment addresses by requiring that substances purchased by the naturopathic physician for IV administration must be from a pharmacy licensed by the State Board of Pharmacy.

Vice-Chairman Carter announced the names of those who signed up in support of SB1119 but did not speak:

Paul Mittmam, President, Southwest College of Naturopathic Medicine  
Jennifer Bonnett, Arizona Public Health Association  
Craig Runbeck, Naturopathic Medical Board

Vice-Chairman Carter announced the names of those who signed up as neutral on SB1119 but did not speak:

Amanda Weaver, Executive Director, Arizona Osteopathic Medical Association

**Question was called on the motion that the Ash three-line amendment to SB1119 dated 2/25/11 (Attachment 5) be adopted. The motion carried.**

**Vice-Chairman Carter moved that SB1119 as amended do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 7).**

### **SB1298 - pharmacists; drug therapy protocols - DO PASS**

**Vice-Chairman Carter moved that SB1298 do pass.**

Ingrid Garvey, Majority Research Analyst, explained that SB1298 allows a licensed pharmacist to administer immunizations and vaccines for influenza or in response to a public health emergency for children at least six and less than eighteen years of age without a prescription and allows pharmacists to administer immunization and vaccinations to children at least six and less than eighteen years of age with a written prescription order (Attachment 8).

Mr. Heinz asked about concerns in the Senate by Senator Andy Biggs and whether the Center for Arizona Policy testified as to its neutral position.

Senator Nancy Barto, sponsor, related that SB1298 makes numerous changes to pharmacists' scope of practice. The elements went through the sunrise process and Committee of Reference. She opined that the policy changes make sense and asked for the Members' support.

Jeff Gray, Legislative Liaison, Arizona Pharmacy Alliance, spoke in favor of SB1298. In response to Mr. Heinz, he stated that he has not had a chance to follow up with Senator Biggs on his concerns about the bill, but it passed the Senate with a bipartisan vote of 28 to 1, with Senator Biggs voting against the bill. The Center for Arizona Policy requested inclusion of a provision to require pharmacists administering immunizations to have parental consent, which is common practice in most pharmacies, so it is included in the bill.

Mrs. Brophy McGee announced the names of those who signed up in support of SB1298 but did not speak:

Pete Wertheim, Chief Legislative Liaison, IASIS Healthcare  
Janet Underwood, Director, Pharmacy Affairs, Arizona Community Pharmacy Committee  
Jennifer Bonnett, Arizona Public Health Association  
John Mangum, Walgreens  
Rory Hays, Lobbyist, Arizona Nurses Association

Beth Lewallen, Maricopa County Board of Supervisors  
David Landrith, Vice President of Policy & Political Affairs, Arizona Medical Association  
Trish Hart, Lobbyist, Arizona Food Marketing Alliance; Walgreens  
Mindy Smith, Executive Director/Chief Executive Officer, Arizona Pharmacy Alliance  
Kelly Hampton, Immunization Trained/Licensed Pharmacist, representing self

Mrs. Brophy McGee announced the names of those who signed up as neutral on SB1298 but did not speak:

Amanda Weaver, Executive Director, Arizona Osteopathic Medical Association  
Deborah Sheasby, Legal Counsel, Center for Arizona Policy  
Laura Hahn, Executive Vice President, Arizona Academy of Family Physicians

**Question was called on the motion that SB1298 do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 9).**

**SB1429 - health care actions; liability; students - DO PASS**

**Mrs. Brophy McGee moved that SB1429 do pass.**

Jessica Gordon, Majority Intern, explained that SB1429 specifies that a student in a health care provider educational or training program is not liable in a medical malpractice action for injury that occurs during or as a result of care while the student is in the program (Attachment 10).

Kelsey Lundy, Lobbyist, Midwestern University, spoke in favor of SB1429. She stated that this legislation has been a collaborative effort between Midwestern University, other health care graduate schools, hospitals and providers. It will protect students from being named as defendants in malpractice cases, except in cases of gross negligence with clear and convincing evidence. It states that a student does not have a legal duty of care for the patient and clarifies that the bill does not reduce the responsibility the licensed health care professional has in supervising the student, which was a concern of the Arizona Trial Lawyers Association.

Mrs. Brophy McGee announced the names of those who signed up in support of SB1429 but did not speak:

Heather Bernacki, Government Relations Associate, Arizona Physical Therapy Association  
Steve Barclay, Lobbyist, Mayo Clinic Arizona  
Norman Moore, Attorney, Independent Colleges & Universities of Arizona  
Lorna Romero, Director of Government Relations, Arizona Chamber of Commerce & Industry  
David Landrith, Vice President of Policy & Political Affairs, Arizona Medical Association  
Pete Wertheim, Chief Legislative Liaison, IASIS Healthcare  
Don Isaacson, Independent Colleges and Universities of Arizona  
Amanda Weaver, Executive Director, Arizona Osteopathic Medical Association  
Jason Bezozo, Senior Program Director, Government Relations, Banner Health  
Scott Shuman, Director of Risk Management, Midwestern University  
Jaime Molera, Lobbyist, University of Arizona Health Sciences Center  
Michelle Pabis, Assistant Government Relations Director, Scottsdale Healthcare  
Barbara Fanning, Legislative Liaison, Arizona Hospital and Healthcare Association

**Question was called on the motion that SB1429 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 11).**

**SB1118 - county medical examiner; identification protocol - DO PASS**

**Mrs. Brophy McGee moved that SB1118 do pass.**

Jessica Gordon, Majority Intern, explained that SB1118 establishes the county medical examiners duties to conduct an identification meeting of the deceased (Attachment 12).

Senator Nancy Barto, sponsor, related that this is a bittersweet bill that stems from an unfortunate situation last year in which the identities of two young women involved in a tragic car accident were mixed up. For a week following the July 18, 2010 car crash, the family and friends of 19-year-old Abby Guerra, who officials said died in the rollover, were mourning, and then she was discovered to be alive. Authorities had confused Abby with 21-year-old Marlana Cantu, another passenger in the vehicle who was thought to have survived the crash with severe injuries, but in fact, was killed. Officials announced that Abby Guerra had died before the Medical Examiner's Office compared the teen's body with her medical records, which did not take place until a week after the crash; the Medical Examiner's Office blamed the delay on a heavy caseload. The girl's true identity would have been revealed if a more detailed examination had been carried out earlier. The family was not allowed to view the body in order to positively identify Abby even after repeated requests. This bill puts a process in place for family members to view the body within 48 hours upon request. She thanked Abby and her family for using their circumstances to bring about positive changes and a remedy for others in Arizona law. She introduced Dorenda Cisneros, Abby's aunt.

Dorenda Cisneros, representing self, introduced Abby Guerra. She stated that the goal of the bill is to ensure that no other family has to go through the tragic event her family had to go through.

Abby Guerra, representing self, thanked the Members for considering the bill, which she believes is really necessary. She added that the situation was not fair for either family.

Mrs. Brophy McGee announced the names of those who signed up in support of SB1118 but did not speak:

Deb Gullett, Guerra Family

Rob Dalager, Abby's Fight for Life

Rory Hays, Maricopa County, spoke in favor of SB1118. She acknowledged the Medical Examiner's Office and Investigator Paul Parker who worked with her and the family to make this happen. She said there is the potential for this to be part of the County's website so families can participate in the process. Maricopa County deals with over 5,000 bodies per year and often as many as 120 per week. There was no means for family intervention, which this bill will provide. Law enforcement will be informed so families can be told how to opt into the information system.

In response to questions, Ms. Hays stated that rural counties do not have full-time medical examiners; in some cases they have contracts or intergovernmental agreements, so the ability to

locate the medical examiner during a long weekend is almost impossible, which is the reason for the exclusion for weekends and holidays. No additional funding was requested for Maricopa County, but by using the website and education, this can be implemented. It is not so much a question of more staff, but of changing priorities.

**Question was called on the motion that SB1118 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 13).**

Without objection, the meeting adjourned at 11:25 a.m.

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Linda Taylor, Committee Secretary  
March 28, 2011

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