

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature – First Regular Session

COMMITTEE ON BANKING AND INSURANCE

Minutes of Meeting
Monday, March 21, 2011
House Hearing Room 5 -- 2:00 p.m. or on recess or adj of floor

Chairman McLain called the meeting to order at 2:50 p.m. and attendance was noted by the secretary.

Members Present

Ms. McCune Davis
Mr. Seel

Mr. Smith D
Mr. Williams

Mr. Dial, Vice-Chairman
Mrs. McLain, Chairman

Members Absent

Mr. Miranda R

Committee Action

SB1238 - DPA (6-0-0-1)
SB1461 - DP (5-1-0-1)
SB1567 - DPA S/E (5-1-0-1)

SB1591 - DPA (4-1-0-2)
SB1593 - DPA (5-1-0-1)

CONSIDERATION OF BILLS:

SB1461 - life settlements - DO PASS

Vice-Chairman Dial moved that SB1461 do pass.

Brooke Olguin, Majority Research Analyst, advised that SB1461 regulates life settlements under the Arizona Department of Insurance (DOI) (Attachment 1). She explained that a life settlement is a transaction in which an individual who possesses a life insurance policy sells the policy to a third party, known as a life settlement provider. The seller of the life insurance policy receives a payment from the life settlement provider and the provider then becomes the beneficiary of the policy at maturation and is accountable for all premium payments until the seller of the policy passes away. The bill contains the following provisions: licensing, contract requirements, provider and broker disclosures to owners, privacy, rule making, examinations, conflict of interest, immunity from liability, annual statements, contract requirements, preemption and enforcement, injunctions, civil remedies, and cease and desist. The bill prescribes penalties for fraud and violations, contains an applicability clause and becomes effective September 30, 2013.

Chairman McLain announced the names of those who signed up in support of SB1461 but did not speak:

Rebekah Friend, Lobbyist, Arizona AFL-CIO

Chairman McLain announced the names of those who signed up as neutral on SB1461 but did not speak:

Karlene Wenz, Legislative Liaison, Department of Insurance

Mr. Seel noted that this legislation creates a fee. He wondered whether that triggers a Prop 108. Ms. Olguin answered that it does not because a fee amount is not mentioned in statute. Mr. Seel asked whether he can get the answer to his question in writing from Legislative Council.

Jason Isaak, Coventry First, in support of SB1461, related that the bill sponsor has asked Legislative Council to provide a memo on that topic. He said he will be happy to provide the memo to Members.

J. Michael Low, Attorney, American Council of Life Insurers, neutral on SB1461, testified that insurers had problems with the bill, as introduced. After negotiations, a number of concerns were addressed. There is still one concern and that is the reason for his neutral position.

Ms. McCune Davis questioned the need for a regulatory scheme to have this type of activity. She said she understands the regulation provides some structure and security; however, she said she is still uncomfortable with the bill.

Mr. Seel queried whether this bill will create some accountability for those who engage in this activity. Mr. Low answered that is the intent of the legislation.

Mr. Seel noted that the AFL-CIO representative signed in as supporting the bill and asked the reason for the support. Chairman McLain advised that they are not present to testify.

Question was called on the motion that SB1461 do pass. The motion carried by a roll call vote of 5-1-0-1 (Attachment 2).

SB1567 - workers' compensation deductible coverage; report - DO PASS AMENDED S/E S/E: notices; commercial insurance

Vice-Chairman Dial moved that SB1567 do pass.

Vice-Chairman Dial moved that the McLain two-page strike-everything amendment dated 3/15/11 to SB1567 be adopted (Attachment 3).

Jennifer Londono, Majority Intern, explained the McLain two-page strike-everything amendment dated 3/15/11 (Attachment 3) to SB1567 makes several changes to the time frames for sending written notices for the cancellation, nonrenewal and premium or coverage changes for commercial insurance policies (Attachment 4). The bill contains the following provisions:

- Shortens the time frame, from 60 days to 45 days, for the following notices to be sent by certified mail to the insured: written notice of cancellation of a commercial insurance policy and written notice of nonrenewal of a commercial insurance policy.
- States that if the written notice of nonrenewal is mailed less than 45 days before expiration of the policy, the coverage must remain in effect until 45 days after the written notice is mailed, rather than 60 days.
- Requires an insurer to mail or deliver written notice of premium increase, change in deductible, reduction in limits or substantial reduction in coverage at least 30 days before the expiration date of the policy, rather than 60 days.
- Stipulates that notice is considered given 30 days following the date of mailing or delivery of the notice, rather than 60.
- Requires that notice be considered given if an insurer delivers new policy terms and conditions 30 days before the expiration date of the policy.

David Childers, Liberty Mutual Insurance Group, PCIAA, spoke in support of the strike-everything amendment to SB1567. This legislation will change the notice requirements for cancellation and nonrenewal of commercial insurance from 60 days to 45 days. He advised that every state's laws include notice requirements for every line of insurance. Currently, 25 states have cancellation, nonrenewal notice requirements of 45 days or less, and about 24 states have notice requirements of 60 days. Commercial insurance policies can be very complex policies with a wide range of coverages and it is not as easy to accumulate and provide all the information necessary to evaluate a renewal as it is for a homeowner's policy or auto policy. Currently, to comply with the 60-day notice requirements, an insurance company sends out a letter advising the insured that the policy has to be renewed in 60 days; however, it may or may not be renewed, and there may or may not be changes to the coverage, deductibles or limits. This essentially puts the insured on notice that there may be changes. The intent of this legislation is to allow an additional two weeks for insurers to gather more information to make the process more effective and efficient. He advised that the Department of Insurance (DOI) does not oppose the language of the bill and, to the best of his knowledge, there is no opposition from insurance agents and brokers.

Ms. McCune Davis asked how giving businesses 15 days less is a benefit when they are shopping the marketplace for another product due to nonrenewal or cancellation of a policy. Mr. Childers advised that the insurance broker starts the process of renewing the policy 30 to 60 days before the policy expires.

Chairman McLain commented that she does not see this as unfriendly to business. She noted that many businesses are represented by a broker.

In response to Mr. Seel's query whether these dates are moot to what actually takes place now, Mr. Childers answered in the affirmative because, in reality, he said the process is ongoing.

Mr. Smith expressed concern about reducing the time from 60 to 45 days and asked whether that is enough time. Mr. Childers replied that it is sufficient time in the commercial market, since brokers are already working on renewal.

Discussion ensued on the shortened time period.

Chairman McLain announced the names of those who signed up in support of the strike-everything amendment to SB1567 but did not speak:

Courtney Gilstrap LeVinus, Tucson Metropolitan Chamber of Commerce

Wendy Briggs, Lobbyist, American Insurance Association

J. Michael Low, Attorney, American Insurance Association

Kerry Hayden, Government Affairs Representative, Farmers Insurance Group of Companies

Chairman McLain announced the names of those who signed up as neutral on the strike-everything amendment to SB1567 but did not speak:

Karlene Wenz, Legislative Liaison, Department of Insurance

Question was called on the motion that the McLain two-page strike-everything amendment dated 3/15/11 to SB1567 be adopted (Attachment 3). The motion carried.

Vice-Chairman Dial moved that SB1567 as amended do pass. The motion carried by a roll call vote of 5-1-0-1 (Attachment 5).

SB1238 - auto glass repair - DO PASS AMENDED

Vice-Chairman Dial moved that SB1238 do pass.

Vice-Chairman Dial moved that the McLain 16-line amendment dated 3/18/11 be adopted (Attachment 6).

Brooke Olguin, Majority Research Analyst, reviewed SB1238 (Attachment 7) and the McLain 16-line amendment dated 3/18/11 (Attachment 6). The bill requires third-party administrators to inform a customer of the right to choose any glass repair facility, prohibits an adjuster or appraiser from recommending any particular repair facility and prescribes penalties for violations. The amendment modifies the bill as follows:

- Deletes language making it unlawful for an insurer or third-party administrator to cause a delay in the inspection of a policyholder's glass condition.
- Includes insurance producers in those exempt from the provisions.
- Clarifies that a person must knowingly violate statute in order to be guilty of a violation.
- Stipulates that a person acted knowingly if they were engaged in a regular and consistent pattern of the prohibited activity.
- Removes the class 3 misdemeanor penalty for subsequent violations.
- Assesses a fine of \$1,500 for a second violation within 18 months of a prior violation and \$3,000 for subsequent violations within 18 months of a prior violation.

Chairman McLain mentioned that the proposed amendment is the result of intense negotiations between the stakeholders.

In response to Mr. Seel, Ms. Olguin advised that the amendment modifies the penalties and imposes a gradual fine for subsequent violations.

In reply to Mr. Smith, Chairman McLain explained that the amendment makes the first incident a petty offense with a \$500 fine, a second reported offense carries a \$1,500 fine and a third offense will be a \$3,000 penalty. She stated that it is not a criminal misdemeanor; it remains a petty offense with increased fines.

Barry Aarons, Lobbyist, Safety Glass Association of Arizona, in support of SB1238, thanked the Chairman and the sponsor for bringing the stakeholders together where agreement was reached. He offered to answer questions.

Brian DiMasi, Safelite Group, spoke in support of the McLain amendment. A handout was distributed on Safelite's Chandler Call Center (Attachment 8). He thanked the Chairman for her work in addressing auto glass fraud. Arizona has a zero deductible for auto glass and he related that in states with a zero deductible, fraud can occur. A study conducted by the National Insurance Crime Bureau on states with zero deductible found a 511 percent increase in questionable auto glass claims. He said that free windshield replacement does not encourage repairs. After inspections, there was a 67 percent decrease in vehicle glass claims nationally. He submitted that inspections work in combating fraud. He answered questions on the claims process.

Mr. Seel asked whether Safelite is a third-party administrator in processing claims or whether Safelite actually replaces windshields. Mr. DiMasi answered that it performs both functions.

Vice-Chairman Dial asked Mr. DiMasi to comment on the allegation that Safelite is directing business away from other installers. Mr. DiMasi stated that customers have the option to choose a glass shop of their choice. He said that when a claim is called in, Safelite always honors customer preference.

Chairman McLain announced the names of those who signed up in support of SB1238 but did not speak:

David Childers, Lobbyist, Liberty Mutual Insurance Group, PCIAA

J. Michael Low, Attorney, Allstate, American Family, MetLife

James Hamilton, Lobbyist, Safety Glass Association of Arizona

Kerry Hayden, Government Affairs Representative, Farmers Insurance Group of Companies

Chairman McLain announced the names of those who signed up as neutral on SB1238 but did not speak:

Karlene Wenz, Legislative Liaison, Department of Insurance

Wendy Briggs, Lobbyist, American Insurance Association

In response to Vice-Chairman Dial, Mr. Aarons answered that the bill specifies that customers have the absolute right to select the glass shop of their choice. Hopefully, having graduated penalties for bad behavior on a regular basis will deter the practice of inspecting, then replacing the windshield without advising the customer that he has a choice.

Question was called on the motion that the McLain 16-line amendment dated 3/18/11 be adopted (Attachment 6). The motion carried.

Vice-Chairman Dial moved that SB1238 as amended do pass. The motion carried by a roll call vote of 6-0-0-1 (Attachment 9).

SB1593 - health insurance; interstate purchase - DO PASS AMENDED

Vice-Chairman Dial moved that SB1593 do pass.

Vice-Chairman Dial moved that the Dial three-page amendment dated 3/18/11 be adopted (Attachment 10).

Jennifer Londono, Majority Intern, explained that SB1593 allows out-of-state insurers to issue policies relating to health or sickness coverage in Arizona (Attachment 11). The provisions of the bill include:

- Allows insurers of the same type as HMDOs, HCSOs, DIs, GDIs and BDIs that issue policies, contracts, plans, coverages or evidences of coverage and hold a Certificate in another state to issue health or sickness insurance in Arizona.
- Authorizes a person to purchase a policy, contract, plan, coverage or evidence of coverage if the insurer provides evidence to the Director that while providing health or sickness insurance:
 - The insurer is subject to the jurisdiction of another state's insurance department.
 - The insurer's Certificate requires the insurer to maintain financial reserves of not less than the amount required in Arizona.
- Asserts that any policy, contract, plan, coverage or evidence of coverage issued for health or sickness by an out-of-state insurer must satisfy the actuarial standards established by the National Association of Insurance Commissioners (NAIC).
- Allows the Director to revoke an out-of-state insurer's right to issue any policy, contract, plan, coverage or evidence of coverage related to health or sickness if any of the following apply:
 - The state that issued the insurer's Certificate changes its financial reserve requirements to less than the amount required in Arizona.
 - The Director establishes:
 - a) A pattern of complaints about denial or about delays in approving care or treatment that are eventually approved.
 - b) That the insurer has a pattern of complaints for failing to pay promptly for claims.
 - c) A pattern of poor customer service at a level that would prompt seeking corrective action or remedies for insurers licensed in Arizona.
 - d) A pattern of the insurer using deceptive marketing practices in Arizona.
 - e) That the insurer has been involved in a pattern of fraudulent activities.
 - f) That the state that issued the insurer's Certificate has identified and repeatedly enforced penalties on the insurer for violations related to claim denials, prompt payment, poor customer service, deceptive marketing practices or fraudulent activities.

- Specifies the language that must be printed as a notice at the beginning of each application for a policy, contract, plan, coverage or evidence of coverage for health or sickness issued by an out-of-state insurer in 12-point boldface type.
- Stipulates that any dispute resolution mechanism or provision for notice and hearing under the Insurance Title applies to out-of-state insurers issuing and delivering policies, contracts, plans, coverages and evidences of coverage for health or sickness coverage.
- Asserts that residents of Arizona who obtain a policy from an out-of-state company have the right to an independent external review in this state.
- States that the decision made by the independent external review board to authorize the treatment or care is binding on the insurer.
- Requires each out-of-state insurer that issues any policy, contract, plan, coverage or evidence of coverage for health or sickness coverage to file an annual report of its financial condition, transactions and affairs as of the preceding December 31st with the Director by March 1st.
- Requires the Director to adopt rules to implement the regulations for out-of-state insurers, including standard forms for the disclosure of benefits.
- Adds foreign insurers that issue policies relating to health or sickness coverage to the definition of *insurance company* or *insurer*.
- Contains a severability clause.

The provisions of the Dial three-page amendment dated 3/18/11 include the following (Attachment 10):

- Changes the term *out-of-state* insurers to *foreign* insurers.
- Eliminates language requiring a policy issued by a foreign insurer for health or sickness coverage to meet the actuarial standards of the NAIC.
- Requires a foreign insurer to register with the Department of Insurance before issuing a policy by submitting an application and a fee as established by the Director.
- Modifies the Director's revocation authority in the following ways:
 - Allows the Director to revoke an insurer's registration, rather than the insurer's right to issue a policy.
 - Removes language authorizing revocation if the Director establishes certain patterns of the insurer.
 - Allows revocation if the insurer failed to comply with the Unfair Practices and Frauds statute.
- Strikes language applying any dispute resolution mechanism or provision for notice and hearing under the Insurance Title to foreign insurers.
- Removes language allowing Arizona residents who obtain a policy from a foreign insurer the right to an independent external review.
- Permits Arizona residents who obtain a policy from a foreign insurer and the foreign insurer itself to participate in the Health Care Appeals Process.
- Allows, rather than requires, the Director to adopt rules to implement the regulations for foreign insurers.

- Removes the requirement for the Director to adopt standard forms for the disclosure of benefits.

Mr. Smith noted that there is nothing in the bill or the amendment that explicitly grants Arizona insurers jurisdiction to sue in the state if a foreign insurance company does not honor a claim. Ms. Londono referred the question to others who will speak.

John Shadegg, former Arizona Congressman, representing self, testified in support of SB1593. He said he is speaking as an expert on the policy of allowing interstate health insurance and what that policy will accomplish. He advised that the goal of interstate sale of health insurance is to bring down the cost of health insurance in the state where sales are allowed for more affordable health insurance coverage, without harming consumers, i.e., without taking away consumer protections. In answer to Mr. Smith's questions, he stated that the bill will not take away the right for Arizona consumers to sue a foreign insurance company for not honoring a claim.

Congressman Shaddeg said that a consumer cannot go to another state to buy an insurance policy; however, an Arizona insurance company can bring an out-of-state policy back to Arizona and sell it. This legislation allows foreign insurers to come to Arizona, file a policy and sell that policy if certain conditions are met: financial stability, appeals process, show proof that they are regulated by the other state where they are doing business, etc. The goal is to enable Arizonans to buy less expensive, more affordable insurance. He advised that this proposal parallels legislation which he introduced in the U.S. Congress. He related that the U.S. Department of Health and Human Services conducted a study of this concept after his bill was introduced, which showed that if this were done on a national basis, the number of uninsured would be reduced nationally by approximately eight million people at a cost of zero because of the affordability of the policies. He said he can provide Members with a copy of that study. He said that the concept of this legislation is to allow more policies to be sold in Arizona by more insurance companies, thereby giving Arizonans more choice. He pointed out that the Department of Insurance (DOI) will have full jurisdiction over these foreign insurers.

Mr. Smith again expressed concern about claims filed in Arizona courts. Congressman Shaddeg stated that foreign insurers must submit to the jurisdiction of DOI and also to Arizona courts. If that requires clarification, he said he believes the authors of the bill will be acceptable to an amendment. The goal is to bring down the cost of insurance.

Mr. Seel brought up the situation where another state has different requirements and mandates. Congressmen Shaddeg said the concept is to put out-of-state insurers and in-state insurers on a level playing field to bring less expensive, more basic policies to market in Arizona.

Senator Nancy Barto, sponsor, thanked Congressman Shaddeg for his work on this issue over the years and expressed the need for this in the state. The premise of SB1593 is to allow Arizonans to purchase insurance across state lines, thereby giving more low-cost options. She stated that this legislation will keep many people off of the Arizona Health Care Cost Containment System (AHCCCS). She referred to and responded to issues that have been brought up by opponents: mandates, consumer protections and the appeals process. She asked Members for their support of SB1593.

Mr. Smith reiterated that he does not see language in the legislation that foreign insurers will be subject to the jurisdiction of Arizona courts. Senator Barto confirmed that tort legislation passed a few years ago clarifies that wherever a complaint is filed, that is the jurisdiction where the court proceeding has to take place.

Dr. Eric Novack, representing self, spoke in support of SB1593. He advised that the Dial amendment is the result of a compromise with the Governor's staff. He stated that the goal of this legislation is to provide the greatest number of options for the greatest number of Arizona citizens so they can get the best health care for themselves and their families.

In reply to Mr. Seel, Dr. Novack said he does not see mandates as a big issue.

In response to Chairman McLain, Dr. Novack answered that, under this legislation, if an insurance company has a certificate of authority in another state, it can sell a policy in Arizona.

Mr. Seel asked about removing all mandates to lower costs. Dr. Novack agreed that certain mandated coverages can increase costs. He commented that the citizens of this state have worked very hard over the years to try to ensure that certain things are covered and he does not advocate eliminating all of the mandated benefits. The goal of this bill is to increase the number of options for people in Arizona.

Mr. Williams commented that this bill makes health insurance policies more competitive. It brings free market principles to the health insurance industry. Dr. Novack concurred.

Tom Jenney, Director, Americans for Prosperity, Arizona, testified in support of SB1593. He advised that his organization is happy to work with organizations in other states to open up their insurance markets as soon as this legislation passes in Arizona.

Ms. McCune Davis referred to the communication from Mr. Jenney in which he referred to insurance companies as insurance cartels and she asked the reason for that. Mr. Jenney replied that one definition of cartel is a group of firms within an industry that uses coercion to restrict access to a market by creating barriers to entry. Ms. McCune Davis said she is having a difficult time making a distinction between what is being proposed and what exists now as a regulatory scheme. Mr. Jenney said his definition of cartel involves an attempt to create regulatory or other barriers to entry for competition within an industry. SB1593 deliberately removes barriers to entry so more firms can enter the marketplace. Ms. McCune Davis told Mr. Jenney that what he is proposing is further away from getting equity of coverage for children who have certain disabilities. She said that is the reason why Arizona has mandates. Mr. Jenney commented that many people have different conditions that are not covered by mandates because they did not have a powerful political lobby to get their conditions included in the Arizona mandates.

Mr. Seel queried the positive impact this bill will have in the marketplace. Mr. Jenney replied that this proposal will not be great for every individual in the insurance industry in Arizona; however, he said he believes that this will be good for consumers in the long run.

Rip Wilson, American Diabetes Association, in opposition to SB1593, stated that the Legislature and the Governor made it a policy that certain conditions will be covered under non-ERISA (Employee Retirement Income Security Act), insurance policies in the State of Arizona. The

Association believes this legislation goes around Arizona requirements and will encourage Arizona insurers to leave the marketplace. He opined that this legislation is the wrong way to deal with the state's policy regarding mandated coverages, especially as it relates to diabetes.

Elizabeth Howell, representing self, expressed strong opposition to SB1593. She said she and her husband, Richard, are parents of a child with autism. She said that other states do not prohibit insurers from excluding treatment for an autism diagnosis, and if consumers cannot buy into the market, they will have to go to Medicaid for these types of services. She advised that her daughter, diagnosed at age two, had many challenges, but treatment she received has changed their lives and their child's life.

Richard Howell, representing self, against SB1593, related that his daughter has made great progress with services and treatment. He said he is opposed to this bill because families of children with autism will not be able to receive services for their children.

In reply to Ms. McCune Davis, Mrs. Howell said that early intervention presents a window of opportunity. She said that an autistic child's progress is limited after age seven, compared to what can be achieved with early intervention. Ms. McCune Davis commented that demonstrates why Arizona has mandates, and why it is so important that these services are available through an insurance provider.

Chairman McLain stated that nothing in this legislation will prevent someone from getting the coverages currently mandated by the state; however, it allows someone to purchase insurance that does not include certain mandates for which they have no need.

Mr. Seel pointed out that 25 states, including Arizona, have autism coverage legislation and he wondered how this legislation will limit or deny that coverage.

Dr. Bryan Davey, Director of Behavioral Services, Arizona Centers for Comprehensive Education and Life Skills (ACCEL), spoke against SB1593. In reply to Mr. Seel, he advised that not all of the 25 states have the same mandated coverages and services; however, families in Arizona are receiving these benefits. He advised that this legislation will permit companies to avoid minimal requirements put in place by the State of Arizona to protect consumers. He related that autism is a genetic-based developmental disability that impacts basic life skills and quality of life. The insurance industry has come to recognize that autism disorders are treatable. He said he strongly believes this bill is clearly the wrong choice for Arizona businesses, Arizonans and individuals with autism.

Mr. Smith said that it seems to him that this bill will expand, not limit, the ability to obtain insurance; it opens up the market. Dr. Davey responded that this is not just an individual purchasing coverage; it is the employer who negotiates rates with an insurance company and who may not purchase coverage that includes the particular coverage needed by the employee or his family.

Chairman McLain commented that what is needed is a way to get the burden of providing health care to employees off the backs of businesses and allow individuals to purchase the plans they feel are best suited for their interests. She said she believes it is an unfair burden on an employer.

Mr. Williams disagreed with Dr. Davey that employees do not have a voice in what kind of insurance coverage is purchased by the company. He said that people can shop for the kind of employer they want to work for. He maintained that there is a lot of market competition, and the market will ensure that these families have options.

Brian Hummell, Director, Government Relations, American Cancer Society, Cancer Action Network, spoke against SB1593. He concurred with testimony presented by the American Diabetes Association and the autism community. Opposition to this legislation relates to the requirements that Arizona insurance policy providers must comply with, for which foreign providers will not have to comply.

Vice-Chairman Dial asked whether any state does not mandate cancer coverage now. Mr. Hummell replied that there are many forms of cancer and many different types of cancer coverage. He said that, across the country, there are many types of cancer coverages that are not mandated. He related that one in two men in their lifetime will be diagnosed with cancer, and one in three women in their lifetime will be diagnosed with cancer.

Mr. Williams commented that Arizona has gotten so far away from having any free market principles in insurance coverage and that, he opined, is the root of the problem. There is nothing that guides health care costs which are out of control in this country. This bill tries to re-establish free market principles that will dictate the cost.

Charles Bassett, Blue Cross Blue Shield of Arizona, in opposition to SB1593, testified that this bill creates two classes of insurers: fully regulated and barely regulated, which is not fair because it creates an unlevel playing field which is not good for consumers. The bill allows out-of-state carriers to come into the state where they will not be subject to the same mandates and regulations as in-state carriers. He submitted that the rules need to apply evenly to all carriers. The proponents of the bill claim that there is not enough competition in Arizona. He submitted that Arizona is more competitive than almost any other state in the country, and that is why premiums are lower than the national average.

Ms. McCune Davis stated that if a constituent has a problem with insurance, she can go to the Department of Insurance to address the issue; however, with foreign insurers, it will be difficult to know where to go to address the problem. Mr. Bassett concurred. He said there will not be one source to go to in order to get answers.

Chairman McLain announced the names of those who signed up in support of SB1593 but did not speak:

Farrell Quinlan, State Director, National Federation of Independent Business

Dave Kopp, Manager, Americans for Prosperity

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

Richard Brinkley, representing self

Roy Miller, Defender of Liberty, representing self

Rebecca Mahan, representing self

David Mahan, representing self

Jose Borrajero, representing self

Judy Borrajero, representing self

John Baunoch, representing self
Mary Ann Baunoch, representing self

Chairman McLain announced the names of those who signed up in opposition to SB1593 but did not speak:

David Childers, Lobbyist, Blue Cross Blue Shield
Tim Vaske, Director of Government Affairs, American Heart Association
Gretchen Jacobs, Attorney, representing self
Char Ugol, representing self
Rebekah Friend, Lobbyist, Arizona AFL-CIO
Christian Stumpf, American Lung Association in Arizona
Lorna Romero, Director of Government Relations, Arizona Chamber of Commerce & Industry
Michelle Bolton, Vice President of Public Affairs, Greater Phoenix Chamber of Commerce
Dr. Doreen Granpeesheh, President of Center for Autism & Related Disorders
Jeff Sandquist, Arizona Association of Health Underwriters
Steve Barclay, Lobbyist, CIGNA HealthCare of Arizona, Connecticut General Life Insurance Company
Donald Stenhoff, Director, The Behavioral Intervention, Support, Treatment and Assessment (BISTA) Center, Arizona Centers for Comprehensive Education and Life Skills (ACCEL)
Henry Grosjean, representing self

Chairman McLain announced the names of those who signed up as neutral on SB1593 but did not speak:

Karlene Wenz, Legislative Liaison, Department of Insurance
Wendy Briggs, Lobbyist, Arizona Association of Health Underwriters

Question was called on the motion that the Dial three-page amendment dated 3/18/11 be adopted (Attachment 10). The motion carried.

Vice-Chairman Dial moved that SB1593 as amended do pass. The motion carried by a roll call vote of 5-1-0-1 (Attachment 12).

SB1591 - health insurance claims; information; disclosure - DO PASS AMENDED

Vice-Chairman Dial moved that HB1591 do pass.

Vice-Chairman Dial moved that the McLain two-page amendment dated 3/18/11 be adopted (Attachment 13).

Brooke Olguin, Majority Research Analyst, stated that SB1591 adds a chapter to the Insurance Title regarding reporting of claims information and allows a plan, plan sponsor or plan administrator to request a written report of claim information from a health insurance issuer (Attachment 14). She summarized the sections of the bill relating to Request for Additional Information, Liability Exemption, Applicability, and Civil Penalty.

Ms. Olguin explained the provisions of the McLain two-page amendment dated 3/18/11 (Attachment 13):

- Allows, rather than requires, a health insurance issuer to agree with a plan sponsor to provide claim information, unless disclosure of the information is prohibited by law.
- Strikes all language relating to the response to a request for claim information and the required information to be included in the report.
- Removes language detailing the information required in the report if the request is made after the date of termination of coverage.
- Deletes the *Request for Additional Information, Liability Exemption and Civil Penalty* sections of the bill.

Senator Nancy Barto, sponsor, advised that the purpose of SB1591 is to allow small businesses to obtain the same access to their health insurance claims costs that big companies already have access to. With that data, companies can better plan for the future, decide what health plan options are best for employees and dependents, and be in a position to use actual claims data to leverage the best prices for insurance. She claimed that Arizona needs this law. It brings transparency to healthcare. She explained that claims data is the compiled information of how much and for what services health insurance claims submitted are paid. The amendment contains provisions to protect the privacy of employees and ensures compliance with federal health information privacy laws. She asked Members to support this legislation and the amendment.

Chairman McLain explained that the McLain amendment is a mutual agreement between the insurance company and the policy holder.

Dr. Eric Novack, representing self, testified in support of SB1591. He related that he has been contacted over the past week by legislators in Arkansas and Nevada and by several national health care policy think tanks about SB1591 and SB1593. He said the country is watching what Arizona does. These bills are an opportunity for legislators to take a stand and put patients and families first.

Vice-Chairman Dial queried whether this information will be beneficial to businesses. Dr. Novack stated that the number one concern for small businesses is the cost of health insurance. He pointed out that not all businesses will want this information. Under the federal health care law, employer participation in the health insurance market is mandated under penalties. He said he believes it is an important step to give businesses the opportunity to get information while protecting employee privacy.

Vice-Chairman Dial asked whether this will violate someone's privacy or violate the Health Insurance Portability and Accountability Act (HIPAA). Dr. Novack said there is always a concern of people abusing medical information and violating a person's privacy. Federal consequences for discriminating against employees on the basis of their health conditions are very severe. Under HIPAA regulations, which this bill complies with, there are protections in place, so he said he believes people's privacy will be protected.

Vice-Chairman Dial asked why the insurance companies dislike this bill. Dr. Novack said that opponents have said this proposal will violate HIPAA; now some say it is an unfair mandate on business.

Ms. McCune Davis said she has a legal analysis that suggests this legislation creates problems with HIPAA.

Glenn Hamer, President/CEO, Arizona Chamber of Commerce & Industry, testified that the Chamber strongly opposes SB1591 because of privacy concerns and because this is a new mandate. The requirements of this bill add to administrative burdens and to costs of insurance.

In response to Vice-Chairman Dial about the requirements, Mr. Hamer said the amendment is a huge step in the right direction.

Ms. McCune Davis again referred to the legal analysis that suggests there will be legal concerns for small employers. Mr. Hamer agreed that there are serious privacy concerns with this bill. The amendment goes a long way to address some of the concerns.

Steve Barclay, Lobbyist, CIGNA HealthCare of Arizona, Connecticut General Life Insurance Company, stated opposition to SB1591 but in favor of the McLain amendment. In its original form, the bill has the potential to create great harm to covered employees and dependents because of the release of personal health information, it exposes the employers to serious legal risk, adds an administrative burden to the health insurers who have to comply with this new mandate, and has the potential to seriously disrupt the Arizona small group market place. He said that HIPAA is a well-designed federal law and he cautioned against rapidly moving to change it, which is what this bill does. This bill creates a dangerous environment where health insurers will have to give up *protected* health information which is protected because it gives out detailed individually-identifiable information on the patient. He said he does not know why there is the need to go further than providing *summary* health information which does not violate anyone's privacy and is already required by law.

Mr. Williams asked Mr. Barclay if he supports the bill with the amendment. Mr. Barclay replied that he would no longer be opposed to the bill with the McLain amendment. He still would like to look at the amendment to see if further safeguards can be built into it.

David Childers, Blue Cross Blue Shield, America's Health Insurance Plans, testified in opposition to SB1591 in its current form. He agreed with testimony given by Mr. Barclay and Mr. Hamer. He said that he is not in opposition to the bill with the amendment; however, there still are concerns that even with the amendment, the distribution of private information could lead to discriminatory treatment or claims against the employer.

Chairman McLain announced the names of those who signed up in support of SB1591 but did not speak:

Jose Borrajero, representing self

Judy Borrajero, representing self

Tom Jenney, Director, Americans for Prosperity, Arizona

Farrell Quinlan, State Director, National Federation of Independent Business

Dave Kopp, Manager, Americans for Prosperity

Roy Miller, Defender of Liberty, representing self

Chairman McLain announced the names of those who signed up in opposition to SB1591 but did not speak:

Charles Bassett, Blue Cross Blue Shield of Arizona

Henry Grosjean, representing self

Gretchen Jacobs, Attorney, representing self

Char Ugol, representing self

Lorna Romero, Director of Government Relations, Arizona Chamber of Commerce and Industry

Michelle Bolton, Vice President of Public Affairs, Greater Phoenix Chamber of Commerce

Jim Norton, President, UnitedHealthcare

Jaime Molera, Lobbyist, Aetna

Chairman McLain announced the names of those who signed up as neutral on SB1591 but did not speak:

Wendy Briggs, Lobbyist, Arizona Association of Health Underwriters

Jeff Sandquist, Arizona Association of Health Underwriters

Karlene Wenz, Legislative Liaison, Department of Insurance

Question was called on the motion that the McLain two-page amendment dated 3/18/11 be adopted (Attachment 13). The motion carried.

Vice-Chairman Dial moved that SB1591 as amended do pass. The motion carried by a roll call vote of 4-1-0-2 (Attachment 15).

Without objection, the meeting adjourned at 6:10 p.m.

Joanne Bell, Committee Secretary

April 4, 2011

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