ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature –Second Regular Session

COMMITTEE ON HEALTH AND HUMAN SERVICES

Minutes of Meeting
Wednesday, January 25, 2012
House Hearing Room 4 -- 9:00 a.m.

Chairman Ash called the meeting to order at 9:09 a.m. and roll call was taken by the secretary.

Members Present

Mrs. Brophy McGee
Mr. Heinz
Ms. Hobbs
Mrs. Judd
Mr. Pierce
Mrs. Yee
Mrs. Carter, Vice-Chairman
Mr. Ash, Chairman

Members Absent

Mrs. Gonzales (excused)

Committee Action

HB2034 - DPA (5-0-0-4)
HB2155 - HELD
HB2162 - DPA (8-0-0-1)
HB2249 - DP (7-0-0-2)
HB2250 - DISCUSSED AND HELD
HB2472 - DP (8-0-0-1)
HB2475 - HELD AT REQUEST OF SPONSOR
HB2568 - HELD
HB2655 - DP (8-0-0-1)
HCR2046 - NOT ASSIGNED

Chairman Ash announced that it is Arizona Physical Therapy Day at the Legislature and acknowledged physical therapists present in the audience.

CONSIDERATION OF BILLS

HB2155 - controlled substances; workers' compensation - HELD

Chairman Ash announced that HB2155 will be held.

HB2475 - child custody; relocation of child - HELD AT REQUEST OF SPONSOR

Chairman Ash announced that HB2475 will be held at the request of the sponsor.

HB2568 - surrogacy; health insurance - HELD

Chairman Ash announced that HB2568 will be held.

HB2162 - nursing care board; membership - DO PASS AMENDED

Vice-Chairman Carter moved that HB2162 do pass.

Vice-Chairman Carter moved that the four-line Carter amendment to HB2162 dated 1/23/12 (Attachment 1) be adopted.

Bethan Jones, Majority Intern, explained that HB2162 decreases the number of members on the Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers from eleven to nine and allows the Governor to stagger the terms of the new appointees (Attachment 2). The amendment modifies the composition of the Board (Attachment 1).

Mrs. Carter, sponsor, stated that HB2162 reduces the number of members on the Board and provides that when members change, the Board is not composed entirely of new members.

Stuart Goodman, Arizona Board of Nursing Care Institution Administrators, spoke in favor of HB2162. He related that the amendment reflects a compromise among various associations to reconfigure the composition of the Board. There are more assisted living facility managers licensed than nursing care institution administrators, so the amendment adds an additional manager to the Board without changing the overall goal of reducing the number of members from eleven to nine.

Question was called on the motion that the four-line Carter amendment to HB2162 dated 1/23/12 (Attachment 1) be adopted. The motion carried.

Vice-Chairman Carter announced the names of those who signed up in support of HB2162 but did not speak:
Allen Imig, Executive Director, Arizona Board of Nursing Care Institution Administrators
Genny Rose, Executive Director, LeadingAge Arizona
Kathleen Pagels, Executive Director, Arizona Health Care Association
F. Jay Shetler, President/CEO, Providence Place at Glencroft
Don Isaacson, LeadingAge Arizona

Vice-Chairman Carter moved that HB2162 as amended do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 3).

HB2472 - AHCCCS; cancer screening - DO PASS

Vice-Chairman Carter moved that HB2472 do pass.

Bethan Jones, Majority Intern, stated that currently a woman must be screened by a provider in the Arizona Well Woman HealthCheck Program (WWHP) to qualify for treatment for breast or

cervical cancer through the Arizona Health Care Cost Containment System (AHCCCS). If she is diagnosed outside of the WWHP, she is disqualified from AHCCCS even if she meets other eligibility requirements. HB2472 allows the Arizona Department of Health Services (DHS) to expand the health care providers that can screen for breast or cervical cancer as part of the Arizona WWHP; qualified individuals may then be eligible for AHCCCS coverage (Attachment 4).

Brian Hummell, Arizona Director of Government Relations, American Cancer Society Cancer Action Network, spoke in favor of HB2472. He said this is an important bill that allows treatment for uninsured women who are diagnosed with breast cancer and have no other option for treatment than seeking charity care. In response to a question, he indicated that 20 other states have this option, which was recently adopted in Oregon and Texas.

Bobbie Thayer, representing self, spoke in favor of HB2472. She related that she was told about the WWHP, but there was a three-week waiting period for an appointment, so she made an appointment with another company and paid for a mammogram. After a follow-up ultrasound and biopsy, she was diagnosed with breast cancer that had spread to her lymph nodes. She was covered by AHCCCS until she qualified for social security disability, which placed her over the income limit for AHCCCS eligibility. After contacting Representative Heinz's office, she was able to obtain coverage for the majority of her treatment through grants or resources identified by the Maricopa Integrated Health System (MIHS). Her treatments will continue through April 2012, at $300 to $400 monthly, and she will need further testing. She thanked Representative Heinz and his staff for their efforts on her behalf, as well as MIHS for finding resources for her treatments.

Mrs. Brophy McGee, sponsor, stated that women who take personal responsibility for their care should not be disqualified from treatment based on how a diagnosis was obtained. This is an important bill because women who do not know about the program will not be penalized. Early diagnosis and treatment for breast and cervical cancer is crucial. HB2472 will have a positive impact on rural communities by expanding the list of providers women can go to for a well woman check. She opined that the fiscal note is overstated.

Ryan DeMenna, American Cancer Society (ACS) Cancer Action Network, in favor of HB2472, asked for the Members' support. In response to a question, he indicated that ACS is currently calculating the savings from early detection of cancer before more intensive care is required, which he will provide to the Members.

Mr. Heinz said that is difficult to quantify. As a physician who admits patients to the hospital who did not have early detection opportunities for whatever reasons, he knows that it is very expensive to reach what is generally not a very good outcome. Early detection is not only less costly, but also better in terms of returning individuals to good health.

Mrs. Brophy McGee stated that she was visiting with the CEO at John C. Lincoln, which has a premier breast care unit. The CEO mentioned that some women diagnosed with breast cancer had no insurance and had just gotten off the phone with Mr. Heinz looking for assistance for Ms. Thayer. This bill will provide a safety net that would otherwise not exist.

Vice-Chairman Carter announced the names of those who signed up as neutral on HB2472 but did not speak:
Jennifer Carusetta, Chief Legislative Liaison, AHCCCS
Colby Bower, Director of Government Relations, DHS

Sherry Gage, Director, Breast Health and Research Center, John C. Lincoln Health Network, neutral on HB2472, said she is a breast cancer survivor who was diagnosed early at age 40 and did not need any treatment. Calls are received from women who have been diagnosed with breast cancer and are unable to access treatment, but the Center does not have the resources to provide the necessary care. The one resource that is available is the WWHP, but women cannot be diagnosed elsewhere; this bill will allow the women to receive those funds.

Paulla Miller, Community Outreach and Patient Resource Coordinator, John C. Lincoln, neutral on HB2472, stated that she receives the calls from women searching for resources. She spoke about her experience as a breast cancer survivor; she was covered by insurance and needed extensive treatment over 14 months, which she could not have paid for out of pocket. She said she would appreciate any consideration that can be given to the women who called her office.

Vice-Chairman Carter announced the names of those who signed up in support of HB2472 but did not speak:
Jennifer Bonnett, Arizona Public Health Association
Helena Whitney, Director, Government Relations and Legislative Affairs, UA Health Network
Rory Hays, Lobbyist, Arizona Nurses Association
Michelle Pabis, Assistant Government Relations Director, Scottsdale Healthcare
Beverly Kruse, Susan G. Komen for the Cure Phoenix
Stuart Goodman, Lobbyist, Dignity Health (formerly Catholic Healthcare West)
Jaimie Leopold, Susan G. Komen for the Cure Southern Arizona
Ryan DeMenna, Associate, American Cancer Society Cancer Action Network
Nicole Olmstead, Government Relations Director, American Heart Association
Gibson McKay, Sherpa Public Affairs; UA Health Network
Daniel Costello, Susan G. Komen for the Cure Phoenix
Christian Stumpf, American Lung Association in Arizona
Tara Plese, Arizona Association of Community Health Centers

Question was called on the motion that HB2472 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 5).

HB2655 - developmental disability services; providers; monitoring - DO PASS

Vice-Chairman Carter moved that HB2655 do pass.

Ingrid Garvey, Majority Research Analyst, explained that HB2655 modifies the frequency of mandatory monitoring visits by the Department of Economic Security (DES) to residential developmental disability service providers (Attachment 6). In response to questions, she stated that monitoring visits for nationally accredited providers are currently conducted every year and state accredited providers every six months. The deemed status is associated with those that are

nationally accredited, and under HB2655, a provider with the deemed status will be monitored every three years.

Chairman Ash surmised that the statute provides that any time a complaint or matter is called to the attention of DES, a monitoring exercise can be conducted, to which Ms. Garvey agreed.

Randy Gray, representing self, in favor of HB2655, stated that he is the chief executive officer of a community organization that contracts with the DES Department of Developmental Disabilities (DDD), and the parent of a child with full spectrum autism. This bill provides a way for providers to act more efficiently and reduces the amount of government so organizations can provide direct care. In response to questions, he said this is a much more consultative approach and it is best practice across the country. There are already monitoring mechanisms for providers in statute.

Mr. Heinz speculated that the national accreditation status is sufficient to allow for a reduction in monitoring without the additional requirement of a previous 95 percent or greater score. Chairman Ash surmised that any organization that attains national accreditation would be scoring above 95 percent. Mr. Gray remarked that it has been many years since his organization scored below 95 percent.

In response to a question, Mr. Gray conveyed that his staff estimated his organization will save approximately $70,000 every six months if this bill passes, which does not include the hours involved in preparing for a site visit.

Jennifer Carusetta, Chief Legislative Liaison, Arizona Health Care Cost Containment System (AHCCCS), neutral on HB2655, indicated that she has concerns, which she plans to work on with the Arizona Association of Providers For People With Disabilities. AHCCCS contracts with the DDD for monitoring of the Arizona Long Term Care System and administration of services for the developmentally disabled (DD) population. Problems are often identified during a site visit and AHCCCS staff is concerned that much can happen in three years, such as staffing or leadership changes. She also wants to ensure that AHCCCS will not lose the ability to sporadically check on facilities that house this very vulnerable population. In response to questions, she indicated that monitoring is necessary, but the federal government gives the states flexibility to establish the frequency and standards by which it is done. She indicated that she will find out what type of approval is needed from the federal government for this change, whether any other types of providers fall into this category and the DDD's ability to conduct monitoring visits.

Monica Attridge, Arizona Association of Providers For People With Disabilities (AAPPD), in favor of HB2655, advised that DES and AHCCCS were aware of this bill for the last few weeks, so she was surprised to receive a call about concerns, which she is willing to look into. This bill will affect seven to ten providers in the state and give providers an additional incentive to become accredited, which is good. It is designed to save time and bureaucracy for providers who are currently stretched so thin.

Vice-Chairman Yee announced the names of those who signed up in support of HB2655 but did not speak:
Mark Jacoby, Executive Director, Gompers Habilitation Center
Heather Bernacki, Government Relations Associate, Arizona Physical Therapy Association

Vice-Chairman Yee announced the names of those who signed up in opposition to HB2655 but did not speak:
Susan Cannata, Attorney, The Arc of Arizona
Peri Jude Radecic, Director of Public Advocacy, Arizona Center for Disability Law
Seth Apfel, representing self

Question was called on the motion that HB2655 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 7).

HCR2046 - wear red day; Arizona - NOT ASSIGNED

Chairman Ash announced that HCR2046 was not assigned to the Committee.

HB2034 - hookah use; minors; prohibition - DO PASS AMENDED

Vice-Chairman Carter moved that HB2034 do pass.

Vice-Chairman Carter moved that the 26-line Yee amendment to HB2034 dated 1/23/12 (Attachment 8) be adopted.

Joe DeMenna, Majority Assistant Research Analyst, explained that HB2034 expands the list of items that are prohibited from being sold to or possessed by a minor to include a hookah or water pipe (Attachment 9). The amendment includes the following provisions (Attachment 8):

- adds an exemption for religious or ceremonial purposes
- adds a gift exemption if the instrument or paraphernalia is not used or intended to be used by the minor to smoke or ingest tobacco or shisha
- defines the term "shisha"
- adds shisha as a prohibited product
- removes the requirement for the Department of Health Services (DHS) to adopt rules relating to hookah lounge patrons
- makes clarifying, technical and conforming changes

Vice-Chairman Yee, sponsor, stated that when she was campaigning, constituents expressed concern that many patrons of hookah lounges and cafes are teenagers, which she affirmed by driving by on a Friday night and seeing teenagers waiting in line. The American Lung Association's trend report indicated that a rising number of teenagers are smoking shisha in a water pipe. Shisha is a fruity flavored tobacco that contains carcinogen components. Numerous studies indicate that one hour of smoking shisha in a hookah pipe is equal to smoking 100 to 200 cigarettes. It is linked to several cancers, as well as serious illnesses and infectious diseases due

to sharing of the water pipe and mouthpiece. She added that the trend report showed that teens who smoke a water pipe are more than eight times likely to experiment with cigarettes.

Christian Stumpf, Regional Director of Government Relations, American Lung Association of the Southwest, spoke in favor of HB2034. He stated that this emerging practice is a public health threat. The goal of the Association is to prevent youngsters from using these instruments.

Vice-Chairman Carter announced the names of those who signed up in support of HB2034 but did not speak:
Brian Hummell, Arizona Director, Government Relations, American Cancer Society Cancer Action Network
Laura Hahn, Executive Vice President, Arizona Academy of Family Physicians
Art Harding, Legislative Affairs Director, Attorney General's Office
Rory Hays, Lobbyist, Arizona Nurses Association
David Landrith, Vice President of Policy & Political Affairs, Arizona Medical Association
Amanda Weaver, Executive Director, Arizona Osteopathic Medical Association
Cathi Herrod, representing self
Susan Cannata, Attorney, Arizona Academy of Family Physicians
Mike Gardner, HBI International
Kevin DeMenna, American Cancer Society Cancer Action Network
Ryan DeMenna, Associate, American Cancer Society Cancer Action Network
Nicole Olmstead, Government Relations Director, American Heart Association

Vice-Chairman Carter announced the names of those who signed up in opposition to HB2034 but did not speak:
Mary Arnold, representing self
Seth Apfel, representing self

Vice-Chairman Carter announced the names of those who signed up as neutral on HB2034 but did not speak:
Colby Bower, Director of Government Relations, Arizona Department of Health Services

Question was called on the motion that the 26-line Yee amendment to HB2034 dated 1/23/12 (Attachment 8) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2034 as amended do pass. The motion carried by a roll call vote of 5-0-0-4 (Attachment 10).

HB2249 - child protective services oversight committee - DO PASS

Vice-Chairman Carter moved that HB2249 do pass.

Joe DeMenna, Majority Assistant Research Analyst, explained that HB2249 establishes the Child Protective Services (CPS) Oversight Committee and outlines the membership and duties (Attachment 11).

Ingrid Garvey, Majority Research Analyst, in response to a question, advised that the Governor's Oversight Committee on CPS completed its work and made recommendations to the Governor.

Representative Terri Proud, sponsor, stated that in 1990, a Joint Legislative Oversight Committee was established because of a rapid increase in child abuse and public concern regarding children in CPS' care. Since that time, numerous committees met on the same issue. She was recently assigned to a Child Safety Task Force Committee that reviewed the same problems, and it was very troubling that many of the action plans adopted by the previous committees were never implemented. Every other governmental agency has an oversight committee, and since CPS involves children, there should be a consistent oversight committee to see if processes can be improved or legislation needs to be revised or eliminated. During the first year, this Oversight Committee will ensure that recommendations are implemented and continue the oversight as the Members see fit.

Mrs. Judd asked if the Oversight Committee will look into appointed judges because she has heard that some judges are making decisions that endanger children. Representative Proud answered that a previous task force made a recommendation to implement a complaint committee, which is being formed, so there will be a place to take matters for investigation.

In response to questions, Representative Proud related that she does not know if other states have this type of committee, but examination of practices in other states is part of the Oversight Committee's responsibility.

Mrs. Yee asked if individuals from the foster parent community or family advocacy groups will be included. Representative Proud responded that she is not opposed to their inclusion.

Vice-Chairman Carter wondered if the HHS Committee could address the duties of the proposed Oversight Committee. Chairman Ash responded that it is sometimes difficult to obtain quorums during the interim. Also, having members who are more acquainted with the day-to-day operations and problems that can arise is sometimes more helpful than legislators who have different areas of expertise. The Oversight Committee could meet informally, do the legwork and report to the HHS Committee.

Mrs. Brophy McGee expressed concern about how this bill will be received by the Governor's Office. She questioned if this is the right mechanism considering the sensitivity of CPS issues. Representative Proud replied that she would be glad to discuss ideas that may be more efficient, but she wants to ensure there is oversight so recommendations are implemented.

Mrs. Brophy McGee expressed concern about the type of testimony that could be given to such a committee. Representative Proud indicated that perhaps the Oversight Committee could work with the complaint committee to avoid hours of emotional testimony.

Michael Durham, 2nd Spoken Voice, representing self, spoke in favor of HB2249. He endorsed the Oversight Committee and recommended the following changes:

- include the Director of the Peace Officer Standards and Training (POST) Board as one of the members of law enforcement required to be on the Oversight Committee

- add a CPS worker to the Oversight Committee
- add a representative of social work licensing and certification to the Oversight Committee
- if retired police officers are hired to fill positions due to the requirement to determine methods to ensure coordination between CPS and local law enforcement agencies, a decision should made whether they will continue to hold POST certification while on duty, as well as other personnel matters
- add a representative from the Arizona State Ombudsman's Office to the Oversight Committee since it has taken over the responsibility of investigating CPS issues

Jeff Taylor, Community Liaison, Sage Counseling, spoke in favor of HB2249. He stated that he runs a DES-licensed nursery for children of homeless and drug-addicted parents, most of whom are involved with CPS. He agreed that recommendations were not implemented, which led him to raise money to have a 200-bed facility built for addicted women at risk of losing their children. He endorsed the Oversight Committee and recommended inclusion of two people who understand addiction and its relationship to the family.

Representative Proud remarked that she is willing to make amendments to add various members and address some of the concerns that were raised.

Vice-Chairman Carter announced the names of those who signed up in opposition to HB2249 but did not speak:
Seth Apfel, representing self

Vice-Chairman Carter announced the names of those who signed up as neutral on HB2249 but did not speak:
Erin Raden, Legislative Liaison, Department of Economic Security

Chairman Ash noted that Mr. Apfel's written comment is that he is opposed to any efforts to privatize CPS, but that is not part of the bill.

Question was called on the motion that HB2249 do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 12).

HB2250 - foster care agencies - DISCUSSED & HELD

Vice-Chairman Carter moved that HB2250 do pass.

Bethan Jones, Majority Intern, explained that HB2250 requires group homes with foster care children ages 12 and older to provide life skills programs (Attachment 13). In response to a question, she advised that the bill does not define "life skills programs."

Representative Terri Proud, sponsor, stated that over the summer, she asked for an investigation of a foster care group home based on disturbing comments. She found there had been 93 police calls to that facility in nine months, and in the previous year, there were even more. Runaways from the facility are not required to be reported, so even with 22 runaways, many incidents occurred. She found that most individuals in group homes are from dysfunctional families and have emotional issues or drug problems. Another facility treats children with the same issues

and had no police reports, but provides a life skills program designed to help children overcome and deal with emotional issues, address drug problems and succeed in society. This bill requires foster care group homes to adopt those life skills programs. In response to a question, she clarified that the other facility was a treatment facility, not a foster care group home.

Ms. Hobbs submitted that a higher level of staff with clinical backgrounds is needed to provide life skills programs for which compensation should be provided. Representative Proud said she contacted the Joint Legislative Budget Committee (JLBC) about the foster care group home, which is small and only holds 10 children, and it receives almost $500,000. The other facilities accommodate more people and receive less money. If there is a financial concern, maybe training would suffice.

Ms. Hobbs asked if the Auditor General will provide an extra layer of oversight beyond agency monitoring; it seems like extra work for an agency that is already overstretched. Representative Proud answered that the intent is for the Licensing Department to go into the group home and see that the children are progressing, whether it is from the CPS caseworker, a report card, proof of less crime, etc. She is willing to amend the portion regarding the Auditor General because she does not want to require an audit unless it is needed.

Mrs. Brophy McGee suggested that the children are being placed in the wrong settings and indicated that she likes the approach in the prior bill of establishing an oversight committee to look into issues in-depth; however, every month that goes by another child "falls through the cracks." Representative Proud replied that, unfortunately, there are not more foster care group homes available for teenagers, so why not focus on improvement.

Mrs. Yee asked for a description of "life skills programs." Representative Proud answered that different facilities, depending on the needs of the children, have different solutions. Mrs. Yee expressed concern that the bill requires these programs to be taught in every foster home. Representative Proud pointed out that the bill is only for group homes, not individual foster homes.

Mrs. Yee said many group homes may not be able to supplement current programs with life skills programs and asked if "may" can be exchanged for "must" in Subsection A of the bill. Representative Proud said she is hesitant, but willing to talk about an amendment.

Mrs. Judd suggested allowing the agency to determine whether it is required to implement a program based on performance and well-being assessments in the home, and perhaps additional education for staff would suffice. Representative Proud agreed, noting that group homes are evaluated to ensure compliance with fire code standards and items of that nature; she would like the focus on how well the children are doing in the homes.

Erin Raden, Legislative Liaison, Department of Economic Security, neutral on HB2250, stated that DES contracts with the group homes require life skills programs to be taught to children age 12 years and older.

Ms. Hobbs noted that there is a negotiated rate between the contractor and DES. Ms. Raden agreed and said she will provide specific information about provider rates. She acknowledged

that current audits and assessments of the group homes are for safety and contract compliance issues, but pointed out that all children in group homes have caseworkers, etc., who assess their individual progress and determine if a different placement is necessary.

Mrs. Judd asked if there is a way to combine all of the caseworkers who are serving children in a particular home, and if the criteria are not being met, a report could be made to the Auditor General. Ms. Raden responded that she cannot speak to the current process for collaboration among caseworkers, but she would be happy to look into that.

Mrs. Yee asked if the sponsor is willing to hold the bill to work out some of the issues noted by the Members. Representative Proud answered affirmatively, stating that she would like to discuss how to improve life skills programs that are currently implemented.

Emily Jenkins, President/CEO, Arizona Council of Human Service Providers, spoke in opposition to HB2250. She related that the Council provides services under contract with DES. She agreed that it is difficult to find foster families for teenagers, who end up in group homes. Council group homes provide life skills programs. She said there are contract compliance issues and licensing issues, so the problems Representative Proud described should be reported to the licensing agency and DES, as well as the caseworkers for the children. The Council requires that any child missing for more than an hour must be reported immediately.

She indicated that the Auditor General may not have the authority to investigate private agencies. There is plenty of auditing responsibility through DES on a regular basis and contract compliance and oversight of the program, as well as the facility, so there is lots of opportunity for oversight; it may only be a question of making complaints to the right entity. She offered to help with determining what life skills programs are provided.

Mrs. Yee announced the names of those who signed up as neutral on HB2250 but did not speak:
Seth Apfel, volunteer, representing self

Chairman Ash stated that HB2250 will be held for further work on some of the issues raised.

Mrs. Yee withdrew the motion that HB2250 do pass.

Without objection, the meeting adjourned at 11:49 a.m.

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Linda Taylor, Committee Secretary
February 2, 2012

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