

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-first Legislature – First Regular Session

COMMITTEE ON HEALTH

Minutes of Meeting
Wednesday, February 6, 2013
House Hearing Room 4 -- 9:00 a.m.

Chairman Carter called the meeting to order at 9:05 a.m. and roll call was taken by the secretary.

Members Present

Mrs. Brophy McGee
Mrs. Gonzales
Mr. Lovas

Mr. Meyer
Ms. Steele
Ms. Townsend

Mr. Boyer, Vice-Chairman
Mrs. Carter, Chairman

Members Absent

None

Committee Action

HB2405 – DP (8-0-0-0)
HB2406 – DPA S/E (8-0-0-0)
HB2407 – DPA (8-0-0-0)

HB2408 – DP (8-0-0-0)
HB2426 – DPA (8-0-0-0)

CONSIDERATION OF BILLS

HB2426 – mobile dentistry – DO PASS AMENDED

Vice-Chairman Boyer moved that HB2426 do pass.

Maritza Heras, Majority Intern, explained that HB2426 contains the following provisions (Attachment 1):

- Specifies that a mobile dental facility or portable dental unit must receive written consent from the patient or the patient's parent or guardian authorizing an examination or preventative treatment and additional written or verbal consent when performing an irreversible procedure.
- States that the signed consent form or verbal communication must be maintained as part of the patient's record.
- Specifies that if services are provided to a minor, the parent or guardian must be provided with contact information for the local public health department in the area in which the patient resides if the permit holder of a mobile dental facility or portable dental unit will

not provide follow-up care to a minor due to lack of insurance or the ability to pay for services.

- Makes technical and conforming changes.

Vice-Chairman Boyer moved that the Carter four-line amendment to HB2426 dated 2/4/13 (Attachment 2) be adopted.

Ms. Heras explained that the Carter four-line amendment to HB2426 (Attachment 2) removes language that addresses the public health department.

Question was called on the motion that the Carter four-line amendment to HB2426 dated 2/4/13 (Attachment 2) be adopted. The motion carried.

Vice-Chairman Boyer moved that HB2426 as amended do pass.

Representative Doris Goodale, sponsor, related that HB2426 makes improvements to prior legislation relating to mobile dentistry. It strengthens the informed consent component in delivery of service so parents or guardians are fully aware of what is happening to their child in terms of dental care.

Mrs. Brophy McGee thanked Representative Goodale for her work on the bill, indicating that it will benefit rural and underserved communities.

Stuart Goodman, Arizona Board of Dental Examiners, stated he supports HB2426. The bill is based on in-the-field experience and working with stakeholders and communities to create a balance between access to care and regulatory oversight. The impetus of the original legislation was that the Arizona Health Care Cost Containment System (AHCCCS) had a small number of children who used mobile dental facilities, but a high rate of reimbursement costs, which raised questions of what was happening in those facilities. Referring to the amendment removing the public health reference, he indicated that it may not make sense in the section of the bill that deals with informed consent; there are risky litigation issues involved with mobile providers having to disclose. He said he hopes stakeholders can meet and figure out the appropriate place for a public health component if it is deemed appropriate. He added that he anticipates other changes to ensure the informed consent component is working as intended. There is general agreement that a second informed consent is good public policy, as well as good for access to care and regulatory oversight.

John MacDonald, Arizona Dental Association, in favor of HB2426, stated that the Association wants to continue working with stakeholders to perfect the language relating to informed consent and any other changes that are necessary. The Association's primary mission is to ensure that consent from the parent to the provider is as meaningful and informed as it can be within the practical realities of running a mobile dentistry operation and balancing access to care.

Vice-Chairman Boyer announced the names of those who signed up in support of HB2426 but did not speak:

Deb Gullett, Arizona Association of Health Plans

Barbara Meaney, Arizona Tooth Doctor for Kids

Jennifer Carusetta, Chief Legislative Liaison, AHCCCS

Elaine Hugunin, Executive Director, Board of Dental Examiners
Kevin Earle, Executive Director, Arizona Dental Association
Tara Plese, Arizona Association of Community Health Centers; Arizona Alliance for
Community Health Centers

Vice-Chairman Boyer announced the names of those who signed up as neutral on HB2426 but did not speak:

Kirsten Roling, Supervisor, Office of Oral Health, Maricopa County Department of Public Health

Question was called on the motion that HB2426 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 3).

HB2405 – nursing care; assisted living; investigations – DO PASS

Vice-Chairman Boyer moved that HB2405 do pass.

Ryan Sullivan, Majority Assistant Research Analyst, explained that HB2405 contains the following provisions (Attachment 4):

- Allows the Board of Examiners of Nursing Care Institution Administrators and Assisted Living Facility Managers (Board) to assess licensees and certificate holders who have violated statute or rule and are subject to disciplinary action with the Board's costs, including attorney fees, related to conducting an investigation and hearing.
- Requires the Board to deposit monies collected in the Nursing Care Institution Administrators' Licensing and Assisted Living Facility Managers' Certification Fund.
- Makes technical and conforming changes.

Chairman Carter, sponsor, invited Brandy Petrone, Board of Examiners of Nursing Care, to speak to the bill.

Brandy Petrone, Board of Examiners of Nursing Care, spoke in favor of HB2405. She said this bill allows the Board the option to recover costs for investigative hearings and investigations for complaints that result in disciplinary action of a licensee. The Board worked with stakeholders over the interim and is committed to continue working with stakeholders if any concerns arise.

Chairman Carter noted that there were some questions related to recovering costs associated with investigations, but this is in line with what other boards are doing. Ms. Petrone responded that 15 boards already have this ability in statute.

Vice-Chairman Boyer announced the names of those who signed up in support of HB2405 but did not speak:

Leonard Clark, representing self
Allen Imig, Executive Director, Nursing Care Board
Don Isaacson, LeadingAge Arizona
Ken Kidder, representing self

Vice-Chairman Boyer announced the names of those who signed up as neutral on HB2405 but did not speak:

Norman Moore, Attorney, LeadingAge Arizona

Kathleen Pagels, representing self

Genny Rose, Executive Director, LeadingAge Arizona

Question was called on the motion that HB2405 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 5).

HB2406 – medical board; licensure requirements – DO PASS AMENDED S/E
S/E: licensure requirements; medical board

Vice-Chairman Boyer moved that HB2406 do pass.

Vice-Chairman Boyer moved that the Carter five-page strike-everything amendment to HB2406 dated 2/1/13 (Attachment 6) be adopted.

Vice-Chairman Boyer moved that the Carter six-line amendment to the strike-everything amendment to HB2406 dated 2/4/13 (Attachment 7) be adopted.

Maritza Heras, Majority Intern, explained that the Carter five-page strike-everything amendment to HB2406 (Attachment 6) contains the following provisions (Attachment 8):

- Exempts a doctor from Arizona licensure if the doctor is licensed to practice in another jurisdiction and the doctor limits practice to patients who reside outside of Arizona, and the doctor and patient are physically in Arizona no longer than 60 consecutive days.
- Clarifies that an applicant whose license under this chapter has expired, who meets prescribed requirements and pays necessary fees, is eligible to be licensed through endorsement under specified conditions.
- Limits a doctor who is not licensed in Arizona from practicing more than a total of 60 consecutive or cumulative days per calendar year under a pro bono registration.
- Makes technical and conforming changes.

Ms. Heras related that the Carter six-line amendment to the strike-everything amendment (Attachment 7) clarifies that the patient must have a relationship already established with the doctor and defines the word *patient*.

Chairman Carter, sponsor, remarked that theater troupes and professional athletes, etc., often travel to Arizona and bring along their medical doctors. The intent of the bill is to clean-up the statute.

Stuart Goodman, Arizona Medical Board, in favor of HB2406, related that the original bill contained technical and obsolete provisions in relation to licensing that could not be simply explained or written, so a decision was made to keep the focus on licensing physicians in a strike-everything amendment. The intent is to update statutes on how licensing is currently done with the Arizona Medical Board.

Mrs. Brophy McGee raised the question of liability so doctors and hospitals do not suffer if an out-of-state physician commits malpractice. Mr. Goodman responded that the amendment to the strike-everything amendment is limited to athletes and professional entertainers, so it cannot be any physician or any patient. For licensees that operate out of state, no matter where the service is provided, the Arizona Medical Board will pursue an investigation and potential disciplinary action. Every state has its own discretion but most states hold doctors accountable in the jurisdiction in which the license was obtained, particularly in criminal matters.

Mrs. Brophy McGee asked if an Arizona doctor would step in if an entertainer or athlete is taken to a hospital or emergency room because the doctor traveling with them is not licensed to practice in Arizona. Mr. Goodman replied that the bill does not address hospital credentialing or those sorts of issues; it is intended for the routine treatment of an athlete or professional entertainer, not the general population.

Mr. Meyer disclosed that there is a section in the bill dealing with lapsed licenses; his license has lapsed, although if he attempted to renew it, he does not believe the bill would impact him.

Vice-Chairman Boyer announced the names of those who signed up in support of HB2406 but did not speak:

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

Question was called on the motion that the Carter six-line amendment to the strike-everything amendment to HB2406 dated 2/4/13 (Attachment 7) be adopted. The motion carried.

Vice-Chairman Boyer moved that the Carter five-page strike-everything amendment to HB2406 dated 2/1/13 (Attachment 6) as amended be adopted. The motion carried.

Vice-Chairman Boyer moved that HB2406 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 9).

HB2407 – qualified immunity; nonprofit clinics – DO PASS AMENDED

Vice-Chairman Boyer moved that HB2407 do pass.

Ingrid Garvey, Senior Majority Research Analyst, explained that HB2407 specifies that a health professional who provides optometric treatment, in addition to medical or dental treatment, within their scope of practice at a nonprofit clinic is not liable in a medical malpractice action unless the health professional was found to be grossly negligent by clear and convincing evidence (Attachment 10). The Carter two-line amendment to HB2407 dated 2/4/13 (Attachment 11) removes the clear and convincing evidence provision.

Vice-Chairman Boyer moved that the Carter two-line amendment to HB2407 dated 2/4/13 (Attachment 11) be adopted. The motion carried.

Vice-Chairman Boyer moved that HB2407 as amended do pass.

Kelsey Lundy, Midwestern University, in favor of HB2407, stated the intent is to define *nonprofit clinic* since there is currently no definition in statute. From Midwestern University's standpoint, students and faculty are willing to volunteer their time and services in these types of nonprofit clinics where free care or screenings are given. Because of lack of clarity in statute, it is unclear whether some health care settings that provide free care fall under this statute, giving healthcare providers a higher liability protection than standard law, which is gross negligence.

Vice-Chairman Boyer announced the names of those who signed up in support of HB2407 but did not speak:

Scott Shuman, Director, Risk Management, Midwestern University

Norman Moore, Attorney, Arizona Optometric Association; Independent Colleges and Universities of Arizona (ICUA)

Don Isaacson, Arizona Optometric Association; Independent Colleges and Universities of Arizona; State Farm

Stacey Meier, Optometrist, Arizona Optometric Association

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

John MacDonald, Arizona Dental Association

Kevin Earle, Executive Director, Arizona Dental Association

Question was called on the motion that HB2407 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 12).

HB2408 – chiropractic board; membership; requirements – DO PASS

Vice-Chairman Boyer moved that HB2408 do pass.

Ryan Sullivan, Majority Assistant Research Analyst, explained that HB2408 allows members of the State Board of Chiropractic Examiners (Board) to be graduates of the same school or college of chiropractic (Attachment 13).

Laura Magnus, Arizona Association of Chiropractic, in favor of HB2408, said the Association was working with the Governor's Office to appoint an individual to the Board. Once the individual was vetted and the Governor agreed to the choice, members of the Association realized there is a law which states that someone cannot be appointed to the Board if another Board member attended the same school, even 30 years apart, so the person was not able to be appointed. This is an outdated law and only the Acupuncture and Optometry Boards have this provision in statute. She asked the Members to pass this legislation so qualified people can be appointed to the Board.

Names of persons who signed up in support of HB2408 but did not speak:

Barry Aarons, Lobbyist, Arizona Association of Chiropractic

Timothy La Sota, Attorney, Rose Law Group, Arizona Chiropractic Society

Pat Pritzl, Director, The Board of Chiropractic Examiners

Question was called on the motion that HB2408 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 14).

Without objection, the meeting adjourned at 9:38 a.m.

Linda Taylor, Committee Secretary
February 12, 2013

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