

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

COMMITTEE ON HEALTH

Minutes of Meeting
Wednesday, March 13, 2013
House Hearing Room 4 -- 10:00 a.m.

Chairman Carter called the meeting to order at 10:09 a.m. and roll call was taken by the secretary.

Members Present

Mrs. Brophy McGee
Mr. Lovas
Mr. Meyer

Ms. Steele
Ms. Townsend

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

Members Absent

Mrs. Gonzales

Committee Action

SB1057 – DP (6-0-0-2)
SB1421 – DP (7-0-0-1)

SB1432 – HELD
SB1433 – DP (7-0-0-1)

Chairman Carter welcomed emerging leaders from the Arizona Academy of Family Physicians in the audience.

PRESENTATION

Martin Shultz, Chairman, Arizona Bioscience Roadmap Steering Committee, provided a packet of information on Arizona's Bioscience Roadmap (Attachment 1). He related that Arizona's Bioscience Roadmap Steering Committee is composed of scientists, health care and bioagriculture specialists and public officials, including Mrs. Brophy McGee. The committee is sponsored by the Flinn Foundation to bring people together to perform a variety of items to grow the bioscience industry. He reviewed a handout that included the following (Attachment 2):

- Reasons for the bioscience industry
- Areas included in the bioscience industry
- Why bioscience is being promoted in Arizona
- Arizona's Bioscience Roadmap
- Bioscience industry composition and growth
- Wages and economic impact associated with bioscience

- New research and entities
- New facilities and incubators/accelerators
- New or expanded major companies
- New schools and education program.

Mr. Shultz stated that, although tremendous progress has been made in the last ten years, the committee is not stopping its efforts. Mattel Group is talking to scientists and policy experts in the state about their vision for the next ten years so the committee can redefine and reemphasize bioscience in Arizona.

Mr. Lovas asked if most of the private sector growth is due to companies moving to Arizona or homegrown spinoffs. Mr. Shultz responded that it is primarily due to state companies that have grown, with some seeding of national and international companies.

Mr. Lovas asked what the state and Legislature can do to help create more jobs and attract more companies. Mr. Shultz responded that he would like to return and talk to the Committee about how the Steering Committee will proceed in the next ten years, but the following can be done now:

- Improve fundamental education in Science, Technology, Engineering and Mathematics (STEM).
- Address the challenge with venture capital investments for early stage development.
- Discuss bioscience and acknowledge that it is a robust industry.

Ms. Steele indicated that she is excited about having the bioscience industry grow in Arizona.

Mrs. Brophy McGee said the Steering Committee is taking the correct steps by informing the Committee; continuing communication is important, especially with the turnover in the Legislature. The state is moving in the right direction in terms of increasing average salaries and the level of the workforce.

Mr. Shultz agreed. He commented that volunteers who are part of the bioscience industry are willing to make presentations to constituencies to spread the word; the *Capitol Times* is also having a breakfast the following week devoted to bioscience.

Vice-Chairman Boyer assumed the Chair.

CONSIDERATION OF BILLS

SB1432 – massage therapy board; executive director – HELD

Vice-Chairman Boyer announced that SB1432 will be held.

SB1057 – AHCCCS; ambulance services; rates – DO PASS

Mrs. Brophy McGee moved that SB1057 do pass.

Ingrid Garvey, Senior Majority Research Analyst, explained that SB1057 adjusts the ambulance service provider rates for services provided to the Arizona Health Care Cost Containment System (AHCCCS) and its contractors (Attachment 3). She indicated that there has been an update to the Joint Legislative Budget Committee (JLBC) fiscal note requested on the bill.

John Kaites, Rural Metro, in support of SB1057, conveyed that last year's budget contained a provision reducing the AHCCCS reimbursement rate and transferred authority of reimbursement ratemaking from the Legislature to AHCCCS. The ambulance industry opposed it at the time, but he was assured it will be fixed this year. The Arizona Department of Health Services regulates 100 percent of what Rural Metro does, such as response time, equipment, training and how much is charged. A 20 percent discount is given to AHCCCS; 80 percent of the rate that everyone else is charged is given to the state. He explained the transport percentages in the budget for this year as well as the next two years and said that ultimately, the ambulance industry hopes to return to 20 percent.

Vice-Chairman Boyer announced the names of those who signed up as neutral on SB1057 but did not speak:

Jennifer Carusetta, Chief Legislative Liaison, AHCCCS

Vice-Chairman Boyer announced the names of those who signed up in support of SB1057 but did not speak:

Charlie Smith, Chief, Arizona Ambulance Association/PMT Ambulance

Meg Leal, MWL Consulting, LLC, City of Phoenix

John Flynn, Arizona Fire District Association

Marcus Dell'Artino, Arizona Ambulance Association

Don Isaacson, Southwest Ambulance

Mark Venuti, Director, Guardian Medical Transport

Tom Dorn, Lobbyist, American Medical Response/River Medical

Dianne McCallister, PMT Ambulance

Question was called on the motion that SB1057 do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 4).

SB1421 – school personnel; emergency epinephrine administration – DO PASS

Ryan Sullivan, Majority Assistant Research Analyst, explained that SB1421 requires school districts and charter schools to stock two juvenile doses and two adult doses of auto-injectable epinephrine at each school, if the Legislature appropriates sufficient funding, and establishes policies, procedures and training requirements for auto-injectable epinephrine in schools (Attachment 5). He related that the Joint Legislative Budget Committee (JLBC) fiscal note estimates an ongoing cost of \$400,000 to \$700,000 to purchase the auto-injectables.

In response to questions, Mr. Sullivan related that school districts and charter schools are required to do this if the Legislature appropriates sufficient funding, but if funding is not provided, school districts have the choice whether to do this or not. Students are currently allowed to carry and self-administer emergency medications, if various policies are met, which this legislation does not affect.

Senator Linda Lopez, sponsor, agreed that SB1421 does not change current law with regard to students being able to take and use auto-injectable epinephrine in school. She conveyed that this legislation is mostly for children who are undiagnosed and suffer an anaphylactic reaction at school. Early administration of epinephrine is critical in saving a child's life; an anaphylactic reaction can turn deadly within minutes and epinephrine lasts about 15 to 20 minutes until emergency personnel can transport the student to a hospital. She added that 20 to 25 percent of epinephrine administrations in school-age children were for those with an unknown allergy at the time of the reaction. In response to questions, she related the following:

- The language for civil liability is significantly strengthened for employees and physicians who prescribe the medication. The bill adds auto-injectable epinephrine to the list of items physicians can administer without having a patient for which they prescribe medications.
- If the school chooses to do this, school personnel need to be trained to recognize anaphylaxis and who to go to for the auto-injectable epinephrine. The State Board of Education (SBE), with the help of professionals and school personnel, will develop a policy for schools.
- Immediately upon administering epinephrine, 911 must be called. The bill calls for two juvenile doses and two adult doses because sometimes a second dose is needed to ensure there is enough time for emergency personnel to arrive.
- Funding will not be needed until the next fiscal year because time is allowed in the legislation for promulgation of rules. Some schools already do this without immunity protection, which SB1421 will provide. It will cost about \$200 per school, but Parent-Teacher Associations indicated willingness to raise money for this purpose.

Ms. Townsend said her daughter was hyperventilating; the school nurse thought she was having a seizure and administered oxygen, which is the opposite of what should have been done. She asked that Senator Lopez consider changing the legislation so someone calls 911 while the injection is being administered. Senator Lopez responded that if there is only one person present to administer the medication, 911 can be called afterward, but if more than one person is present, she hopes they will call while the injection is being administered.

Mr. Lovas related that he has had to inject his seven-year-old son with epinephrine three times because of a peanut allergy, which saved his life. There is an entire table of children with food allergies at his son's school, but this bill is for children unaware of potential food allergies and it will save lives.

Mrs. Brophy McGee moved that SB1421 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 6).

SB1433 – optometry board – DO PASS

Ryan Sullivan, Majority Assistant Research Analyst, explained that SB1433 continues the State Board of Optometry for 10 years, modifies Board membership by removing the physician member and replacing them with a second public member and increases the Board's authority and responsibilities regarding complaints and disciplinary actions (Attachment 7). The

Brophy McGee three-line amendment to SB1433 dated 3/11/13 (Attachment 8) reinstates language requiring one physician and one public member to serve on the Board.

Mrs. Brophy McGee moved that SB1433 do pass.

Mrs. Brophy McGee moved that the Brophy McGee three-line amendment to SB1433 dated 3/11/13 (Attachment 8) be adopted.

Trish Hart, Arizona Ophthalmological Society, opposed SB1433. She indicated that the Society represents physicians engaged in the practice of ophthalmology and asked the Members to support the Brophy McGee amendment. The Society supports continuation of the Board, which serves a vital and important purpose, but does not support removing the physician member from the Board, which will likely not enhance patient safety, the most basic function of the Board. She noted that a stakeholder meeting will be held the next morning to discuss this issue.

In response to a question, she related that the bill was heard in the Senate Health Committee. An amendment was drafted and sponsored by Senator Kelli Ward to keep the physician member on the Board, which failed. Senator Ward also offered the same amendment on the Floor where she and Senator Nancy Barto spoke in favor of retaining a physician member on the Board. She added that it is rare for a continuation bill to contain a substantial policy change, which should be separate from continuation, in order to be discussed and vetted on its own merits.

Dr. Jim Meador, representing self, spoke in opposition to SB1433. He indicated that he is an ophthalmologist, who was appointed to the Board by former Governor Rose Mofford for one-and-a-half terms. During the half term, he sat in the place of a non-ophthalmologist member who resigned mid-term. To date, all of the physicians on the Board have been ophthalmologists until the present time, when a family physician was appointed, who resigned and was not replaced. The scope of practice for optometrists has substantially expanded and education requirements were increased, but it does not equal the training of ophthalmologists. This is a public safety issue; the physician is on the Board for information and expertise purposes. In response to questions, Dr. Meador related the following:

- One case involved an eye infection inside the eye that developed after surgery, which an optometrist missed, treatment was delayed, and the patient's eye was lost. During the Board's discussion of the case, he was able to say what proper care should have been. The optometrist was sent for additional training and left the state afterward.
- All states have an ophthalmologist on the Board, except Tennessee.
- The Board does not deal with scope of practice; it mainly oversees optometric care and patient complaints.
- Ophthalmologists are more attuned to catching problems with the eye earlier than optometrists because of their additional training. At that time, optometrists were not well-versed in diagnosing complications; there were symptoms in the records that should have alerted the optometrist to a problem.

Dr. Brian Mach, President, Arizona State Board of Optometry, in support of SB1433, stated that the proposed changes are for clarification of outdated language. He requested removal of a physician member on the Board, noting that for the past 30 years, there has been a physician on

the Board. Most have not been ophthalmologists, but family practice, orthopedic surgeons, etc. When an ophthalmologist is on the Board, there is often conflict and there is already sufficient expertise with five optometrists. He noted that the missed eye infection was due to post-operation cataract surgery performed by a medical doctor, who received less of a penalty from the Board of Medical Examiners than the optometrist received from the Board of Optometry. In response to questions, he related the following:

- The last ophthalmologist on the Board three years ago, Dr. Curtis Winkler, was helpful and did not provide any expertise, but spoke against the Board while serving on it.
- Testimony from Dr. Meador appeared to be against optometry, not the Board. The Board does not regulate patient care, but determines if a doctor violated any statutes, and penalties are imposed based on that. Malpractice cases are the responsibility of the courts.
- There are no conflicts or turf battles at the Maricopa Medical Center between the two professions; this only occurs at the Legislature. The only group that should attend the stakeholder meeting is the Board of Optometry.

Ms. Townsend asked, for the sake of patients and the industry, that optometrists and ophthalmologists overcome the infighting.

Mr. Meyer commented that this legislation contains significant changes in a continuation bill, which is typically done separately. Regarding the eye infection, the Ophthalmology Board should be made aware that complications occurred. He noted that case studies show that if nurses, physicians and allied health professionals work together, patient outcomes are better.

Dr. Annette Hanian, Optometrist, Arizona Optometric Association, in support of SB1433, stated that the provisions were requested by the Board to become more effective. She noted that she was asked by the Board to speak about the Association's legislative agenda; Dr. Curtis Winkler invited their lobbyist to sit in on the discussion and then testified against the Association the next week. She added that when she refers patients to ophthalmologists, both professionals work together for the benefit of the patient, but problems arise at the Board level. Eliminating the physician on the Board makes the relationship more adversarial.

Mrs. Brophy McGee asked if the minutes of the Board are public and whether anyone can attend. Dr. Hanian answered in the affirmative, but said the problem is the environment in which the Board is working.

Don Isaacson, Arizona Optometric Association, spoke in support of SB1433. He provided historical background on the optometric profession, which has expanded. He pointed out that since the first expansion 33 years ago, not a single medical complaint was made to the Board against optometrists; in fact, complaints against optometrists are 2.3 percent; for ophthalmologists, it is about 8 percent. He indicated that 49 other states do not require a physician on their boards. He added that there should be two separate bills and read a letter from a medical doctor, who is not an ophthalmologist and served on the Board, indicating that if an ophthalmologist believes the Board should be observed, the ophthalmologist can send a person to do so like all other interested parties.

In response to questions, Mr. Isaacson related that for the last few years, the physician position has been vacant and the Board has done fine.

Mrs. Brophy McGee said a stakeholder meeting will be held the following morning. The fact that this controversial provision ended up in a continuation bill is disturbing; the purpose of the amendment is to preserve the Board's continuation.

Names of persons who signed up in support of SB1433 but did not speak:

Dr. Chad Carlsson, representing self
Stacey Meier, Optometrist, Arizona Optometric Association
Dr. Tom Determan, representing self
Dr. Jan McVey, representing self
Dr. Ken Johnson, representing self
Dr. Bart Pemberton, representing self
Dr. Jonathan Bundy, representing self
Dr. Matt Sullivan, representing self
Tracy Sullivan, representing self
Dr. Ken Williams, representing self
Dr. Priscilla Lee, representing self
Dr. Pat Willer, representing self
Dr. James Mathis, representing self
Dr. Monica Mathis, representing self
Dr. Tom Czyz, representing self
Dr. Dave Coulson, representing self
Dr. Tania Sobchuk, representing self
Dr. Cheryl Schmitt, representing self
Lil Vogl, representing self
Dr. David Rockwell, representing self
Frank Akers II, Optometrist, representing self
Dr. Beth Pyle-Smith, representing self
Dr. Thomas Babu, representing self
Dr. Vasvi Babu, representing self
Dr. James Abbott, representing self
Dr. Jeff Bergeson, representing self
Dr. Bob Maynard, representing self
Serge Wright, representing self
Dr. Richard Glonek, representing self
Tim Hanian, representing self
Dr. Marla Husz, representing self
Gilbert Wong, Optometrist, representing self
Amanda Weaver, Executive Director, Arizona Osteopathic Medical Association
Dr. Roger Juarez, representing self
Margaret Whelan, Executive Director, Arizona State Board of Optometry
Dr. Mike Hanley, representing self
Dr. John Fornara, representing self
Shannon Steinhauser, President, Arizona Optometric Association, representing self
Arthur Epstein, Optometrist, representing self
Dr. Chris Parot, representing self

Kaci Kramer, Optometrist, representing self
Camille Chung, Optometrist, representing self

Norman Moore, Arizona Optometric Association, pointed out that Senator Nancy Barto sponsored SB1023 - technical correction; dentistry; permit (optometry board; continuation), which was on the agenda for the Health Committee last week, but was not heard.

Names of persons who signed up as neutral on SB1433 but did not speak:
Elaine Arena, Luxottica Retail

Names of Person recognized who signed up in opposition to SB1433 but did not speak:
John Mangum, Arizona Ophthalmology Society
David Landrith, Vice President, Policy and Political Affairs, Arizona Medical Association
Dr. Thomas Moore, representing self
Raymond Zimmerman, Ophthalmologist, Arizona Ophthalmological Society
Dr. Jeff Maltzman, representing self

Chairman Carter said this issue is extremely contentious between the two medical professions. She is holding the stakeholder meeting the following morning to discuss whether a physician member should be removed from the Board. She asked anyone who plans to attend to let her know so there are no quorum issues; if so, meetings will be held in small groups. SB1023 was not heard last week because a decision was made to include this provision in the continuation bill with the idea that the stakeholder meeting will be held. She added she would like this bill to move forward.

Question was called on the motion that the Brophy McGee three-line amendment to SB1433 dated 3/11/13 (Attachment 8) be adopted. The motion failed by a roll call vote of 3-4-0-1 (Attachment 9).

Question was called on the motion that SB1433 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 10).

Without objection, the meeting adjourned at 12:08 p.m.

Linda Taylor, Committee Secretary
April 3, 2013

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