

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature –First Regular Session

COMMITTEE ON HEALTH AND HUMAN SERVICES

Minutes of Meeting
Wednesday, February 16, 2011
House Hearing Room 4 -- 8:15 a.m.

Chairman Ash called the meeting to order at 8:33 a.m. and attendance was noted by the secretary.

Members Present

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

Members Absent

None

Committee Action

HB2091 - DPA S/E (6-2-0-1)	HB2384 - DPA (6-3-0-0)
HB2099 - DPA S/E (9-0-0-0)	HB2476 - DP (8-0-0-1)
HB2132 - DPA S/E FAILED (3-6-0-0)	HB2530 - DPA (9-0-0-0)
HB2156 - DPA (7-1-0-1)	HB2620 - DPA (9-0-0-0)
HB2211 - DPA S/E (9-0-0-0)	HB2651 - DP (9-0-0-0)
HB2212 - HELD	HB2658 - DPA (9-0-0-0)
HB2213 - DPA S/E (9-0-0-0)	HB2675 - DPA (5-2-0-2)
HB2233 - DPA (9-0-0-0)	

CONSIDERATION OF BILLS

HB2212 - timeshares; technical correction - HELD

S/E: chiropractic; definition

Chairman Ash announced that HB2212 will be held.

HB2658 - domestic violence review teams - DO PASS AMENDED

Vice-Chairman Carter moved that HB2658 do pass.

Vice-Chairman Carter moved that the Ash three-line amendment to HB2658 dated 2/15/11 (Attachment 1) be adopted.

Amber Morin, Majority Intern, Appropriations Committee, explained that HB2658 broadens the language in Arizona Revised Statutes §41-198 regarding domestic violence to include near-fatalities, and allows the Arizona Peace Officer Standards and Training Board (AZPOST) and the State Domestic Violence Coalition to receive domestic violence reports (Attachment 2). The amendment specifies that a near-fatal incident of domestic violence is an assault committed by a party to domestic violence where the victim suffers life-threatening injuries (Attachment 1).

Representative Terri Proud, sponsor, stated that HB2658 adds AZPOST and the Domestic Violence Coalition to the entities that receive reports from domestic violence fatality review teams, and adds to the cases a review team can review so lessons can be learned from those tragedies. There is no known opposition.

Ms. Hobbs stated that she spent the last 11 years working in the field of domestic violence and served on the Phoenix Domestic Violence Fatality Review Team. This bill allows teams to study more cases and provide more information that will be helpful to assist in making changes.

Lyle Mann, Deputy Director, Arizona Peace Officer Standards and Training Board (AZPOST), spoke in favor of HB2658. He related that AZPOST trains peace officers. Review teams study tragedies involving domestic violence in an effort to learn how to prevent further tragedies. AZPOST and the Domestic Violence Coalition would like to have copies of the reports to review and use to implement changes and, hopefully, prevent tragedies in the future.

Chairman Ash asked if someone is shot at but not hit or injured, is that applicable under the amendment since it is a life-threatening incident. Mr. Mann responded that it is not currently covered. It was difficult to find language that will cover everything. That example may not be available for review, which would not hinder prosecution in that situation, but if the language is too broad, the purpose of the review teams will be diluted.

Jerald Monahan, Chief of Police, Apache Junction, representing self, spoke in favor of HB2658. He related that he served as the work group chairperson for the Governor's Office Division for Women for the last two years, and he has seen the development and implementation of domestic violence fatality review teams increase around the state. Currently, there are nine teams in place. This measure will give the teams greater discretion in the cases that are reviewed, and additional information in those reports may be of value in changing systems and processes to allow communities to prevent tragedies from occurring in the future.

Kevin Wilde, Legislative Intern, Arizona Coalition Against Domestic Violence (speaking on behalf of Lindsay Simmons), urged support for HB2658. He explained that domestic violence fatality review teams were established in 2005 with the goal of gathering information about deaths related to domestic violence. The information gleaned from examining actions and outcomes is used to improve policies and procedures related to domestic violence with the goal of preventing future tragedies.

Vice-Chairman Carter announced the names of those who signed up in support of HB2658 but did not speak:

Lindsay Simmons, Systems Advocacy Coordinator, Arizona Coalition Against Domestic Violence

Kathleen Mayer, Deputy Pima County Attorney, Pima County Attorney's Office

Kimberly MacEachern, Staff Attorney, Arizona Prosecuting Attorneys' Advisory Council

Question was called on the motion that the Ash three-line amendment to HB2658 dated 2/15/11 (Attachment 1) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2658 as amended do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 3).

HB2099 - mandated health coverage report; legislators - DO PASS AMENDED S/E S/E: hospice care; restoration

Vice-Chairman Carter moved that HB2099 do pass.

Vice-Chairman Carter moved that the Heinz eight-page strike-everything amendment to HB2099 dated 02/09/2011 (Attachment 4) be adopted.

Amber Morin, Majority Intern, Appropriations Committee, explained that the strike-everything amendment to HB2099 (Attachment 4) adds hospice care to Arizona's covered health and medical services and eliminates outdated language in Arizona Revised Statutes §36-2907 and 36-2989 (Attachment 5).

Mr. Heinz, sponsor, remarked that it is very important to restore hospice coverage for patients with fee-for-service coverage through the Arizona Health Care Cost Containment System (AHCCCS), which is the best type of care toward the end of life. The strike-everything amendment is cost-neutral.

Jennifer Carusetta, Chief Legislative Liaison, Arizona Health Care Cost Containment System (AHCCCS), in support of the strike-everything amendment to HB2099, agreed that this proposal is budget-neutral. She stated that AHCCCS cannot provide hospice services to the fee-for-service population, which is mostly the American Indian population, because the services are not authorized in statute. Services for this population are 100 percent federally funded.

Vice-Chairman Carter announced the names of those who signed up in support of the strike-everything amendment to HB2099 but did not speak:

Craig McDermott, representing self

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

Question was called on the motion that the Heinz eight-page strike-everything amendment to HB2099 dated 2/9/2011 (Attachment 4) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2099 as amended do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 6).

HB2211 - technical correction; early voting - DO PASS AMENDED S/E
S/E: inpatient evaluation or treatment

Vice-Chairman Carter moved that HB2211 do pass.

Vice-Chairman Carter moved that the Ash eight-page strike-everything amendment to HB2211 dated 2/9/11 (Attachment 7) be adopted.

Ingrid Garvey, Majority Research Analyst, explained that the strike-everything amendment to HB2211 (Attachment 7) repeals and rewrites the statutes related to inpatient evaluation or treatment (Attachment 8).

Chairman Ash, sponsor, asked Jim McDougall to speak to the measure.

Jim McDougall, Attorney, State Bar of Arizona, spoke in support of the strike-everything amendment to HB2211. He stated that many members of the subcommittee that he chaired, which resulted in this legislation, heard from clients for whom they had obtained guardianship or drafted mental health powers of attorney that hospitals often did not know what they were presenting, and the clients could not obtain assistance from the police or crisis services to obtain treatment for a loved one until it was too late. This bill attempts to give guardians and agents an additional tool to get a loved one to a hospital for treatment before a crisis occurs. He said he worked with representatives of the police department on the amendment so that rather than the police detaining the individual, they will facilitate transportation of the individual by medical transport or ambulance service, which is less traumatic.

Vice-Chairman Carter announced the names of those who signed up in support of the strike-everything amendment to HB2211 but did not speak:

Janna Day, representing self
Joseph Abate, Counsel, Arizona Psychiatric Society
Mark Bolton, Attorney, State Bar of Arizona

Vice-Chairman Carter announced the names of those who signed up as neutral on the strike-everything amendment to HB2211 but did not speak:

Ray Churay, Deputy Director, Maricopa County Sheriff's Office

Question was called on the motion that the Ash eight-page strike-everything amendment to HB2211 dated 2/9/11 (Attachment 7) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2211 as amended do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 9).

HB2620 - medical records; disclosure; release - DO PASS AMENDED

Vice-Chairman Carter moved that HB2620 do pass.

Vice-Chairman Carter moved that the Ash seven-line amendment to HB2620 dated 2/15/11 (Attachment 10) be adopted.

Ingrid Garvey, Majority Research Analyst, explained that HB2620 adds a chapter to Title 36 of the Arizona Revised Statutes relating to Health Information Organizations (HIO) and amends existing statutes to accommodate the exchange of electronic health information (Attachment 11). The amendment to HB2620 changes the definition of a *Health Information Organization* (Attachment 10).

Mike Warden, Senior Vice President, Information and Technology/Chief Information Officer, Banner Health; Board Member, Arizona Healthy Connection; Health Information Network of Arizona, spoke in favor of HB2620. He stated that members of all of those organizations believe that the exchange of healthcare information between all providers to the benefit of patients will improve quality of care and reduce costs. This bill is absolutely essential to advance the cause of electronic medical records in Arizona, and it is also a requirement of the meaningful use provisions of the American Recovery and Reinvestment Act.

In response to questions, Mr. Warden stated that the opt-out mechanism, which is in the bill, has been established over time and proven to be effective. With an opt-in model, it would not be possible to exchange health information unless each individual opted into the system. That is not very effective because most people do not make that decision until it is really needed, and in emergency or other situations, it is too late at that point. Eleven states have formal opt-out policies and only one or two have opt-in. The remainder have no policy, which is basically opt-out; current statute permits the sharing of health information between providers for the purposes of care and treatment, so without addressing it, states with no policy assume data can be exchanged, which means patients have to say they want to opt-out. Discussion followed.

Aaron Sandeen, State Deputy Chief Information Officer, Government Information Technology Agency (GITA), spoke in favor of HB2620. He stated that he is the State Health Information Technology Coordinator for the Health Information Exchange Grant of \$9.377 million awarded to the state from the Office of National Coordinator (ONC), which is part of the U.S. Department of Health and Human Services, to implement a statewide health information exchange. He said he hopes the plan will be approved by the ONC in the next few weeks. He explained that several requirements need to be facilitated in 2011: enablement of e-prescribing; receipt of structured lab results; and sharing of patient care summaries across unaffiliated organizations. There are 25 different elements of sharing information that are required for a hospital or provider to qualify for meaningful use, including those three major deliverables.

He stated that a survey last year showed that 49 percent of providers have electronic medical records (EMR) systems, but only nine percent currently exchange information, partly because of confusion about what can be exchanged, how to exchange it, etc. This bill will put into place the different mechanisms to exchange the information so it flows freely. One of the biggest concerns is the federal Clinical Labs and Improvement Act (CLIA), which has some gray areas

as to who can own lab information, and he believes this bill will help with that. He added that with meaningful use, it is estimated that over the next five years, between hospitals and providers, about \$500 million worth of incentive money will be available to Arizona.

Mr. Sandeen responded to questions concerning opt-in versus opt-out provisions, security, potential cost to providers, accessing the information, distinguishing one individual from another and the feasibility of an opt-in provision.

David Dexter, President/Chief Executive Officer, Sonora Quest Laboratories; Laboratory Sciences of Arizona, spoke in support of HB2620. He stated that this bill is the enabler for all of the EMR deployments that have been going on for the last three years. Laboratory comprises 50 percent of the data elements of EMRs, and there will not be a health information exchange in Arizona unless laboratories are allowed to release data to HIOs. HB2620 provides the ability, under the Health Insurance Portability and Accountability Act (HIPAA), to sign business associate agreements with an HIO to deliver data, and the HIO in turn, will have individual agreements with physicians. He stated that with the huge volume of patient encounters, it is not feasible to try to ascertain 24 hours per day whether a patient opted in.

In response to a question, he stated that currently if a patient calls a laboratory and asks for test results, the information cannot be released, except with a physician's authorization. In the future, with EMRs, the patient will be the steward of his/her personal electronic health record.

David Landrith, Vice President of Policy and Political Affairs, Arizona Medical Association, spoke in support of HB2620. He stated that patients will be given the opportunity to be involved in their own medical record, so they will be able to request changes, review it when necessary, direct its use and where it goes. He indicated that he prefers the opt-out provision, but discussions will continue on the issue. Without this bill, the state will be set back in terms of the ability to meet meaningful use, which means several hundred millions of dollars in reimbursement to hospitals will be lost. He opined that the bill will improve medical care and eliminate medical errors. He said it has been vetted by the entire healthcare industry, with one neutral exception, and by businesses looking out for their employers.

Melissa Rutala, Chief Executive Officer, Arizona Health-e Connection (AHC), spoke in favor of HB2620. She related that health information technology has the potential to significantly increase the quality of healthcare and reduce healthcare costs, but it will not be possible without the infrastructure in place so the right information is available to the right person at the right time. This bill incorporates the necessary regulations to make sure information is passed on securely and privately. Opt-in will not allow information to be transferred electronically unless a consumer consents to that transfer; the opt-out mechanism will allow the information to be available, as well as the opportunity for patients and consumers to determine if they do want to participate in the exchange. As this effort moves forward, AHC will continue to educate consumers so patients are aware of the infrastructure that is in place, their rights and the opportunity to opt-out of the system.

Mrs. Barton asked about the position of health insurance companies. Ms. Rutala responded that the entire AHC Board, including representatives from four major healthcare plans in Arizona, is fully supportive of the bill.

Jake Logan, Vice President, Government Affairs, UnitedHealthcare, in support of HB2620, advised that health insurance companies are governed under HIPAA, which will not be changed with passage of this bill. To his knowledge, there will not be any additional rights granted to an insurer to review a patient's medical record with passage of this bill. Not only does the bill contain the necessary patient protections, but efficiencies in the system will improve patient care and save costs.

Vice-Chairman Carter announced the names of those who signed up in support of HB2620 but did not speak:

Steve Barclay, Lobbyist, Cancer Treatment Centers; Mayo Clinic

Pete Wertheim, Chief Legislative Liaison, IASIS Healthcare

Michelle Pabis, Assistant Government Relations Director, Scottsdale Healthcare

Barbara Fanning, Legislative Liaison, Arizona Hospital and Healthcare Association

Wendy Briggs, Lobbyist, SCAN Health Plan

Kelsey Lundy, Lobbyist, UnitedHealthcare of Arizona

Don Isaacson, Aging Services of Arizona; Pfizer Company

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

Rory Hays, Lobbyist, Arizona Nurses Association

Barry Aarons, Lobbyist, Arizona Association of Chiropractors

Jason Bezozo, Senior Program Director, Government Relations, Banner Health

Helena Whitney, Director, Government Relations and Legislative Affairs, UA Healthcare

Amanda Weaver, Executive Director, Arizona Osteopathic Medical Association

Laura Hahn, Executive Vice President, Arizona Academy of Family Physicians

Jaime Molera, Lobbyist, Schaller Anderson; Aetna

Colby Bower, Arizona Department of Health Services

Kevin Earle, Executive Director, Arizona Dental Association

Kathryn Busby, Arizona Association of Health Plans, Inc.

Kathy Byrne, representing self

John MacDonald, Lobbyist, Maricopa Integrated Healthcare System

Sue Braga, Arizona Chapter of the American Academy of Pediatrics

Mindy Smith, Executive Director/Chief Executive Officer, Arizona Pharmacy Alliance

Richard Bitner, Legislative Counsel, Arizona State Association of Physician Assistants

Jennifer Carusetta, Chief Legislative Liaison, Arizona Health Care Cost Containment System

Jeff Gray, Legislative Liaison, Arizona Pharmacy Alliance

Genevra Richardson, Director of Government Relations, UnitedHealthcare

Susan Cannata, Attorney, Arizona Academy of Family Physicians

Chairman Ash remarked that he received a letter in support of HB2620 from Thomas Betlach, Director, Arizona Health Care Cost Containment System.

Question was called on the motion that the Ash seven-line amendment to HB2620 dated 2/15/11 (Attachment 10) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2620 as amended do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 12).

THE MEETING RECESSED AT 10:21 A.M. FOR A 10-MINUTE BREAK.

THE MEETING RECONVENED AT 10:36 A.M. ALL MEMBERS WERE PRESENT.

HB2233 - mobile dental facilities - DO PASS AMENDED

Vice-Chairman Carter moved that HB2233 do pass.

Vice-Chairman Carter moved that the Carter eight-line amendment to HB2233 dated 2/10/11 (Attachment 13) be adopted.

Ingrid Garvey, Majority Research Analyst, explained that HB2233 establishes mobile dental facilities and portable units and outlines procedures and standards for operation (Attachment 14). The amendment to HB2233 allows a mobile dental facility to obtain appropriate informed consent by verbal communication (Attachment 13). If the consent is verbal, it must be recorded by an electronic or digital device, and the informed consent must be maintained as part of the patient's record.

Representative Doris Goodale, sponsor, conveyed that mobile dental facilities provide a critical service in underserved and non-served areas, but there is no oversight and no way to take care of concerns about patient care. Also, many of the services are paid through the Arizona Health Care Cost Containment System (AHCCCS), and there is no way to capture information on taxpayer dollars and the level of care children are receiving. This bill moves portable dental units under the purview of the Arizona Dental Board so there is some oversight. The amendment is the result of a stakeholder meeting. She added that she will work with Mrs. Yee who has a concern about transparency and protection of privacy of students in school.

Stuart Goodman, Arizona Board of Dental Examiners, spoke in favor of HB2233. He stated that the goal of this bill is not to create a regulatory burden, but to create regulatory oversight. A child should have the same level of care in a mobile facility as in a stationary facility. The amendment represents a consensus approach to the issue of consent, both written and verbal. More work needs to be done in that area, so additional stakeholder meetings will be held.

Mrs. Yee, in acknowledgement of Chairman Goodale's comment, indicated that she will not be offering an amendment (Attachment 15) that addresses information schools provide to mobile dental units in relation to federal privacy laws, and competitive bidding, since school districts are receiving calls from parents about the type and quality of work that is done on students by the dentists. She said she would like to continue those discussions.

Vice-Chairman Carter announced the names of those who signed up as neutral on HB2233 but did not speak:

Jennifer Carusetta, Chief Legislative Liaison, AHCCCS

Mike Williams, Arizona State Dental Hygienists' Association

Vice-Chairman Carter announced the names of those who signed up in support of HB2233 but did not speak:

John MacDonald, Lobbyist, Arizona Dental Association

Kevin Earle, Executive Director, Arizona Dental Association
Dr. Gary Jones, DDS, representing self
Gregory Harris, Lobbyist, Ralph Green DDS PC
Elaine Hugunin, Executive Director, Arizona State Board of Dental Examiners
Mark Hughes, representing self
Jason Dittberner, representing self
Ronald Giordan, Arizona Dental Association
Sue Braga, Arizona Chapter, American Academy of Pediatrics
W. Brian Powley, DDS, Arizona Dental Association
Terry Ramsey, DDS, Arizona Dental Association
Fred Olsen, DDS, representing self
Howard Sorensen, DDS, representing self
Dr. Bob Oro, DMD, representing self
Randolph Snyder, DMD, Arizona Dental Association
Allison House, DMD, representing self
Shannon Coen, DMD, representing self
Regina Cobb, Dentist, Arizona Dental Association
Don Simpson, DDS, representing self
Robert Roda, Arizona Dental Association
Sarah Cordero, Dental Student, Arizona Dental Association
Dr. Greg Pafford, DDS, representing self
Robert MacArthur, Dental Student, Arizona Dental Association

Question was called on the motion that the Carter eight-line amendment to HB2233 dated 2/10/11 (Attachment 13) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2233 as amended do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 16).

HB2091 - nurses; continuing education - DO PASS AMENDED S/E
S/E: continuing education; nurses

Vice-Chairman Carter moved that HB2091 do pass.

Vice-Chairman Carter moved that the Heinz three-page strike-everything amendment to HB2091 dated 02/14/2011 (Attachment 17) be adopted.

Vice-Chairman Carter moved that the Heinz three-line amendment to the strike-everything amendment to HB2091 dated 02/15/2011 (Attachment 18) be adopted.

Jessica Gordon, Majority Intern, explained that the strike-everything amendment to HB2091 (Attachment 17) requires continuing education (CE) as part of the license renewal process and establishes criteria regarding that process (Attachment 19). The amendment to the strike-everything amendment to HB2091 specifies that this limitation does not begin until April 1, 2015 for an entity that receives Medicare payments (Attachment 18).

Mr. Heinz, sponsor, stated that nurses he works with at the Tucson Medical Center (TMC) expressed concern that, unlike physicians, dental hygienists, attorneys, real estate agents, etc., there are no existing requirements for CE for the nursing profession when nurses are next to the patient more than anyone else in the healthcare system. The strike-everything amendment is the result of stakeholder meetings. The amendment to the strike-everything amendment addresses concerns about the ability of nursing homes specifically, and other types of facilities that offer CE, to continue doing so without having to seek additional accreditation quickly.

In response to a question, he related that Section G in the strike-everything amendment, which contains exemptions to the CE requirements, addresses instances when a nurse is not actively serving or is otherwise engaged.

Judy Rich, President/Chief Executive Officer, Tucson Medical Center (TMC), spoke in favor of the strike-everything amendment to HB2091. She indicated that taking care of patients in hospitals and healthcare systems is a very complicated business. It is a body of work that changes rapidly and requires constant education on the part of all people involved in care giving, which is why it is important to require that the nursing staff continue to update their education and provide proof of such. She acknowledged that healthcare facilities have an obligation to provide education to staff; however, that does not happen in many other venues where nursing care is provided.

Rory Hays, Arizona Nurses Association, in support of the strike-everything amendment to HB2091, stated that this is a professional responsibility, not an institutional responsibility. She provided a document showing the options available to professional nurses and the costs (Attachment 20). She said CE should be meaningful, so she requested that CE provided by an employer be limited to six hours per year, unless the individual is in a CE program approved by the Nursing Board. She added that she has no objection to the amendment to the strike-everything amendment in principle, but she is not convinced it takes four years to obtain approval to conduct CE, so she will be talking to parties to see if the time frame can be shortened.

Vice-Chairman Carter stated that she is surprised that nurses are not required to have CE. Ms. Hays responded that there are other competency requirements, but this is a “little extra frosting on the cake.” When Chairman Ash asked if she is aware of any lawsuits that relate to a nurse’s lack of training, she answered that she is not, but typically nurses are included in a long line of people sued in malpractice suits. She has not seen a case where that was an issue, but it could be.

Chairman Ash opined that employers are doing a good job providing CE. He sometimes found CE requirements in law and real estate, when he was a broker, to be burdensome because he had to spend time and money studying something that had no relationship to the particular area he was working on, so he is concerned about imposing a broad requirement on all nurses. Ms. Hays answered that more than 30 percent of nurses are not currently working in institutions and may not be receiving any CE, which is a problem. The 15-hour per year request is not an overly burdensome amount. There is also language directing nurses to seek education relevant to the type of work they are doing.

In response to a question, Ms. Hays advised that it is fairly easy for institutions to become accredited. The Association wants to meet with groups and go through that process to make sure the quality of education is appropriate. She reiterated that institutions will not be required to provide CE; it is a professional requirement, so if a nurse is not comfortable with the choices at the institution where they work, or if it is not relevant to them, there are other choices.

Norman Moore, Attorney, Aging Services of Arizona, spoke in favor of the strike-everything amendment to HB2091, making the following comments:

- He is concerned that facilities will not be allowed to include the different kinds of training they are currently providing; however, he supports the three-line amendment delaying the limitation to six hours per year for facilities that are not approved or certified until 2015.
- He will continue to work with the sponsor because the strike-everything amendment to HB2091 only pertains to Medicare facilities. Some facilities are licensed by the Department of Health Services that are not Medicare-certified, but already provide 12 hours of CE to staff. Many of the facilities have had rates reduced or frozen in the last few years, so adding that requirement will be burdensome.
- This is a professional responsibility of each nurse, but as a practical matter, people who are applying to nursing facilities want to know if CE will be covered. Employees have been taking the training provided by facilities for a long time in a flexible, cost-efficient manner.

Mr. Heinz indicated that he thought Medicare certification encompasses all of the facilities Mr. Moore represents, but evidently that is not true, so he is willing to broaden the classification.

F. Jay Shetler, President/Chief Executive Officer, Glencroft Care Center, in opposition to the strike-everything amendment to HB2091, said nursing home Arizona Long Term Care System (ALTCS) reimbursement was frozen during the last two funding cycles, which has resulted in significant operational changes; however, Glencroft continues to provide quality care. He reviewed a document showing four different scenarios of the financial impact of the strike-everything amendment in providing training to licensed staff (Attachment 21).

Mr. Heinz pointed out that the onus is on the individual licensee; there is no mandate that would cause those expenses to the facility. Mr. Shetler replied that he understands the intent, but other similar bills were passed for which the institution ended up picking up the cost, such as requiring nurses to have fingerprint clearance cards. The number of seniors entering long-term care facilities is increasing, and there was an extreme shortage of nurses and nursing personnel prior to the recession that will only become worse. Competition for competent, professional employees will be extraordinary, which forces institutions to cover these kinds of costs. Nurses will be asking about CE credits, so there is no question that, ultimately, it will fall on the shoulders of the long-term care providers.

Mr. Heinz stated that in the context of medicine and rapidly evolving care, he does not believe the argument of “tough times” can be allowed to compromise patient care. Mr. Shetler responded that he is aware of the need for ongoing education and he would like to continue the discussion because he has some ideas.

Vice-Chairman Carter announced the names of those who signed up in support of the strike-everything amendment to HB2091 but did not speak:

Robin Schaeffer, Executive Director, Arizona Nurses Association
Kathleen Pagels, Executive Director, Arizona Health Care Association
Tara Plese, Arizona Association of Community Health Centers

Vice-Chairman Carter announced the names of those who signed up in opposition to the strike-everything amendment to HB2091 but did not speak:

Scott Wynn, AZAHA Board of Directors; Chief Operating Officer, Beatitudes Campus; Aging Services of Arizona
Genny Rose, Executive Director, Aging Services of Arizona
Paul Loomans, representing self
Cheryl Knupp, La Loma Care Center

Vice-Chairman Carter announced the names of those who signed up as neutral on the strike-everything amendment to HB2091 but did not speak:

Gregory Harris, Lobbyist, Arizona Board of Nursing
Jo Ridenour, Executive Director, Arizona Board of Nursing

Vice-Chairman Carter moved that the motion to adopt the Heinz three-line amendment to the strike-everything amendment to HB2091 dated 02/15/2011 (Attachment 18) be withdrawn. The motion carried.

Mr. Heinz moved that the Carter three-page strike-everything amendment to HB2091 dated 02/14/2011 (Attachment 17) be amended as follows:

Page 2, line 2, after the period insert “THIS LIMITATION DOES NOT BEGIN UNTIL APRIL 1, 2015 FOR AN ENTITY THAT RECEIVES MEDICARE PAYMENTS.”

Mr. Heinz remarked that he will continue to work with individuals on concerns. He will not attempt to move the bill forward unless a reasonable consensus is reached with all stakeholders.

Question was called on the motion that the Carter three-page strike-everything amendment to HB2091 dated 02/14/2011 (Attachment 17) be amended as follows:

Page 2, line 2, after the period insert “THIS LIMITATION DOES NOT BEGIN UNTIL APRIL 1, 2015 FOR AN ENTITY THAT RECEIVES MEDICARE PAYMENTS.”

The motion carried.

Vice-Chairman Carter moved that the Carter three-page strike-everything amendment to HB2091 dated 02/14/2011 (Attachment 17) as amended be adopted. The motion carried.

Vice-Chairman Carter moved that HB2091 as amended do pass. The motion carried by a roll call vote of 6-2-0-1 (Attachment 22).

HB2675 - food stamps; benefit cards; penalty - DO PASS AMENDED

Vice-Chairman Carter moved that HB2675 do pass.

Vice-Chairman Carter moved that the Ash two-line amendment to HB2675 dated 2/11/11 (Attachment 23) be adopted.

Jessica Gordon, Majority Intern, explained that HB2675 adds to the criteria for unlawful use of food stamps, stipulates the color and phrase required for each Supplemental Nutrition Assistance Program (SNAP) card and requires secondary identification upon use of the card (Attachment 24). The amendment to HB2675 eliminates the requirements relating to the color, text and photograph to be placed on the card and the provision directing additional identification to be presented at a grocery business (Attachment 23).

Representative Jeff Dial, sponsor, opined that the bill, with the amendment, will make it clear that it is illegal for anyone who buys a SNAP card to use the card. The state administers this program, but everyone pays federal taxes that should not be used by unintended people or for purposes other than the intent. This only applies in the instance of an unlawful transfer.

Chairman Ash stated that it is illegal to sell a food stamp card, but there is no law against buying one, which is the purpose of the amendment. If someone is using the card on someone else's behalf, that is not an unlawful transfer.

In response to a question, Representative Dial indicated that he is not aware of any federal laws that address this issue.

Mrs. Yee commented that the other day she drove by a corner liquor store with a sign indicating that food stamps are accepted. She questioned if liquor is authorized under the food stamp program or if other items sold in the store are authorized by the food stamp program. Ms. Gordon replied that according to the Department of Economic Security, alcoholic beverages or tobacco cannot be purchased with food stamps, but if the store sells food products with nutritional labels, those can be purchased with food stamps.

Chairman Ash noted that he received a letter from Paula J. Hale and others objecting to the original language because of concern about over-supervising or embarrassing people who are using food stamps and a prohibition against giving it to a spouse or someone else to use, which was taken out of the bill.

Mrs. Gonzales asked how the bill will be enforced. Chairman Ash speculated that someone who becomes aware will notify the police or the police may observe the violation occurring.

Mrs. Gonzales stated she wants to make sure grocery clerks will not be asked to monitor this. Chairman Ash said he does not anticipate that happening, but he cannot speak for law enforcement.

Question was called on the motion that the Ash two-line amendment to HB2675 dated 2/11/11 (Attachment 23) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2675 as amended do pass. The motion carried by a roll call vote of 5-2-0-2 (Attachment 25).

HB2476 - workers' compensation; certain diseases; exposure - DO PASS

Vice-Chairman Carter moved that HB2476 do pass.

Jessica Gordon, Majority Intern, explained that HB2476 increases the criteria time periods an employee has to establish a prima facie workers' compensation claim involving exposure to methicillin-resistant staphylococcus aureus (MRSA) (Attachment 26).

Levi Bolton, Vice President, Phoenix Law Enforcement Association, spoke in favor of HB2476, noting that discussions are still underway regarding the timelines. A MRSA outbreak occurred in the City of Phoenix, which was very difficult. Almost everyone who is a first responder comes into contact with people who have MRSA, which can be transmitted in a number of ways.

Mike Williams, Arizona Police Association, spoke in favor of HB2476. He testified that he is working with other stakeholders and Mr. Heinz to establish a more consistent timeline. In response to a question, he indicated that opponents of the current language suggested 15 days to diagnose with more time to report. Attempts are being made to obtain an accurate answer from a disease control entity on how long it actually takes to diagnosis MRSA.

Chairman Ash stated that from a personal conversation with opponents, the Chamber of Commerce objects to the 30-day time period and talked to Mr. Williams about shortening it.

Mr. Williams advised that the opposition asked him to state that they are working together to determine the timeline. He is not willing to agree to 15 days until a definite answer is obtained because if an officer is exposed and not diagnosed in 15 days, the officer is not covered under workers' compensation insurance; it goes on his private insurance.

Mr. Heinz stated that as a medical provider, he cannot tell that a rash or infection may contain MRSA for a number of weeks. He discussed this with the head of the Infectious Disease Department at TMC.

Question was called on the motion that HB2476 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 27).

Names of persons who signed up in support of HB2476 but did not speak:
Brian Livingston, Executive Director, Arizona Police Association
Lyle Mann, Deputy Director, Arizona Peace Officer Standards and Training Board
Mike Colletto, Executive Director, Professional Firefighters of Arizona
Thomas Parker, Arizona Fraternal Order of Police
Norman Moore, Attorney, Fraternal Order of Police
Don Isaacson, Fraternal Order of Police

Names of persons who signed up in opposition to HB2476 but did not speak:
Jeff Gray, Legislative Liaison, Arizona Self-Insurers Association
Lorna Romero, Director of Government Relations, Arizona Chamber of Commerce and Industry

**HB2132 - technical correction; bingo license; transfer - ~~DO PASS AMENDED S/E~~ -
FAILED
S/E: dental hygienists; local anesthetics; administration**

Vice-Chairman Carter moved that HB2132 do pass.

Vice-Chairman Carter moved that the Ash three-page strike-everything amendment to HB2132 dated 2/11/11 (Attachment 28) be adopted.

Jessica Gordon, Majority Intern, explained that the strike-everything amendment to HB2132 (Attachment 28) allows a dental hygienist to administer local anesthetics (Attachment 29).

Sharon Zastrow, Arizona State Dental Hygienists' Association, in favor of the strike-everything amendment to HB2132, advised that dental hygienists have been allowed to provide local anesthetic in Arizona under direct supervision for almost four years without incidents. She asked that the Committee recognize the ability and education of dental hygienists to provide this care by allowing them to provide anesthesia with the written consent of their supervising employer.

Mike Williams, Arizona State Dental Hygienists' Association, spoke in favor of the strike-everything amendment to HB2132. He stated that a dentist sometimes asks the dental hygienist to administer anesthesia before arriving at the dental facility or the dentist leaves the building while a patient is under anesthesia, which places the dental hygienist in a difficult position. Dental hygienists are already administering anesthesia, and on the rare occasion someone has an allergic reaction to Novocain, they are trained in cardio-pulmonary resuscitation and mouth-to-mouth resuscitation, but often all that is needed is an EpiPen injection and monitoring of the patient's breathing and heart rate.

Kevin Earle, Executive Director, Arizona Dental Association, stated that he opposes the strike-everything amendment to HB2132, mostly because of issues dealing with patient safety and liability. He made the following points:

- This measure was introduced without consultation with the Arizona Dental Association. If dentists are leaving the practice when dental hygienists are administering anesthesia, that is clearly a violation of the Dental Practice Act, and members of the Association could be engaged in educational endeavors to make sure members know that is not permissible.
- The reason for direct supervision over the administration of local anesthesia is that potential reactions can occur. Dental hygienists are not allowed to diagnose, so if a crisis occurs with a patient, to identify the exact nature of the crisis would not be within the purview of the dental hygienist. Furthermore, the dental hygienist is not permitted to administer drugs or medications. Minutes and seconds count in an emergency so it is important for a dentist to be present.
- If a crisis occurs when the dentist is not present and someone sues, they will go after the "deep pockets," which is the dentist.

Mr. Earle responded to questions regarding allergic reactions, providing protection for dental hygienists and best practices.

Representative Michelle Ugenti, sponsor, stated that this measure is about less regulation by allowing adults to articulate to one another and set up a practice as they see fit. Dental hygienists have been exposed to liability and placed in circumstances that are out of their control. If dentists are not comfortable, they do not have to set this up in their practice, but if they do feel comfortable, they can move forward with this and it will not be a violation of the law. In response to a question, she indicated that she is not sure this will result in increased liability. Dentists are liable now and already have insurance for malpractice. Placing hygienists in a position where they are violating current law creates more liability than having an agreement so it can be practiced under law.

Dr. Mark Hughes, representing self, spoke in opposition to the strike-everything amendment to HB2132. He stated that if these incidences are occurring, it is against the law and unethical. Dentists are also assuming a lot of liability by doing that. This measure may result in less regulation, but there will also be increased liability and increased insurance premiums. He submitted that if this is being done and a hygienist is uncomfortable, the hygienist should tell the employer he/she is not willing to do this, and if the employer fires him/her, there will probably be legal action.

Mr. Heinz stated that he is not sure the strike-everything amendment is the best solution, but the problem should be addressed because placing dental hygienists in that position is not good for patients and places the dentist in a dangerous and precarious spot. Dr. Hughes responded that more education by the associations is a better solution, and if hygienists are placed in this position, they should know how to handle the situation and who to call.

John MacDonald, Lobbyist, Arizona Dental Association, opposed the strike-everything amendment to HB2132. He pointed out that this issue was brought to the Association's attention in the form of a bill, not by the Hygienists' Association or hygienists in general. If there had been an opportunity to recognize the issue, understand the problem and spend time working together, this legislation would not be necessary. In response to a question, he stated that while this may be occurring, it is occurring in relatively small numbers compared to the number of total dentists; it should not be fixed by rewarding bad behavior, but by curing bad behavior.

Vice-Chairman Carter announced the names of those who signed up in opposition to the strike-everything amendment to HB2132 but did not speak:

W. Brian Powley, DDS, Arizona Dental Association

Terry Ramsey, DDS, Arizona Dental Association

Fred Olsen, DDS, representing self

Dr. Bob Oro, DMD, representing self

Howard Sorensen, DDS, Arizona Dental Association

Ronald Giordan, Arizona Dental Association

Allison House, DMD, representing self

Randolph Snyder, DMD, Arizona Dental Association

Shannon Coen, DMD, representing self

Regina Cobb, Dentist, Arizona Dental Association
Don Simpson, DDS, representing self
Robert Roda, Arizona Dental Association
Dr. Gary Jones, DDS, representing self
Sarah Cordero, Dental Student, Arizona Dental Association
Dr. Greg Pafford, DDS, representing self
Robert MacArthur, Dental Student, Arizona Dental Association
Dr. Jason Dittberner, representing self

Question was called on the motion that the Ash three-page strike-everything amendment to HB2132 dated 2/11/11 (Attachment 28) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2132 as amended do pass. The motion failed by a roll call vote of 3-6-0-0 (Attachment 30).

THE MEETING RECESSED AT 12:52 P.M. UNTIL ADJOURNMENT OF THE APPROPRIATIONS COMMITTEE.

THE MEETING RECONVENED AT 4:45 P.M. ALL MEMBERS WERE PRESENT.

HB2156 - dental hygienists; supervision requirements - DO PASS AMENDED

Vice-Chairman Carter moved that HB2156 do pass.

Vice-Chairman Carter moved that the Ash eight-line amendment to HB2156 dated 2/14/11 (Attachment 31) be adopted.

Jessica Gordon, Majority Intern, explained that HB2156 specifies that when a dental patient has been examined by a dentist or a licensed physician within the past year, a dental hygienist may perform dental hygiene procedures on patients in a healthcare facility, nursing home, public health agency or institution or public, private, charter school or homebound setting (Attachment 32). The amendment to HB2156 allows a dental hygienist to perform procedures in a nursing home or healthcare facility on patients over 21 years of age who have been examined within the previous year by a dentist or a licensed physician.

Mike Williams, Arizona State Dental Hygienists' Association, spoke in favor of HB2156. He stated that he has been working with the Dental Board, and in the optimal situation, dentists should see patients in a nursing home annually, but unfortunately, that is not currently the case. It is better for hygienists to see someone in a nursing home than for no one to see them. He suggested a Floor amendment changing once per year to 30 or 60 days, so the dental hygienist can do the assessment and cleaning necessary for a patient in a nursing home, and include a provision that if a dental hygienist finds something wrong, the dental hygienist can get the doctor to see the patient in the nursing home. He asked the Members to support the bill so discussions can continue to work out a situation to provide better dental care to the elderly. Many dental hygienists volunteer to do this on their own time.

Mrs. Yee stated that the Arizona Medical Association was surprised to hear about this legislation, which includes physicians looking at the oral cavity and may have some liability issues. Mr. Williams replied that this does not address a doctor looking at the oral cavity, but conducting a physical assessment on a patient as to whether the patient can survive a dental hygienist doing an assessment, and then the hygienist will contact a dentist if something wrong is found.

Mr. Heinz stressed the fact that many conditions and severe illnesses can occur if the teeth are not properly attended to and cleaned, and this is a particularly at-risk population.

In response to a question, Mr. Williams restated that he would like to see the year requirement to see a physician changed to 60 or even 30 days, and indicated that he is willing to sunset the bill in 24 months to see what happens.

Sharon Zastrow, Arizona State Dental Hygienists' Association, spoke in favor of HB2156. She stated that five years ago, dental hygienists and dentists were provided the authority to enter into a collaborative agreement to provide care for children 18 and under. Last year, the age group was expanded to people age 18 and over. She is asked by family members almost on a monthly basis if she can go to the nursing home, and she can, but all she can do is brush the patient's teeth. This change was requested because there are physicians in nursing homes that evaluate these patients, so it makes sense. She encouraged the Committee's support.

Mr. Heinz stated that it sounds like she is almost talking triage. Ms. Zastrow stated that she perceives her work as triage, but she also helps patients develop some kind of plaque control and as problems arise, she contacts the appropriate provider to do whatever is needed.

Emma Violante, Registered Dental Hygienist, Arizona State Dental Hygienists' Association, representing self, spoke in favor of HB2156. She related her background and talked about working with elderly patients. She requested the opportunity to go into a nursing home where patients are not seen on a regular basis and make an assessment, take x-rays, etc. She would also like to be able to collect data to identify the extent of dental problems among residents in nursing homes.

Kevin Earle, Executive Director, Arizona Dental Association, opposed HB2156. He stated that on two occasions in the last two Legislative Sessions, the Affiliated Practice Model was reviewed and changes were made, but nursing homes were not brought up. There are a number of things that could be done to address this issue, which he is willing to discuss with the Dental Hygienists' Association and other parties. He added that any dental hygienist going into a nursing home to provide services does so at the direction of the dentist they work for, so he does not understand the problem. The dentist should be the person who is ultimately able to provide those services under the Affiliated Practice Model. He indicated to Mr. Heinz that it will be necessary to determine how the physician fits into the equation.

Mrs. Yee asked who is liable in a home care setting if things go wrong with only the hygienist present. Mr. Earle answered that liability typically goes to the "deep pockets," but everyone would be sued.

Vice-Chairman Carter announced the names of those who signed up in opposition to HB2156 but did not speak:

John MacDonald, Lobbyist, Arizona Dental Association

Mark Hughes, representing self

Dr. Jason Dittberner, representing self; Arizona Dental Association

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

W. Brian Powley, DDS, Arizona Dental Association

Fred Olsen, DDS, representing self

Terry Ramsey, DDS, Arizona Dental Association

Dr. Bob Oro, DMD, representing self

Howard Sorensen, DDS, Arizona Dental Association

Ronald Giordan, Arizona Dental Association

Randolph Snyder, DMD, Arizona Dental Association

Allison House, DMD, representing self

Shannon Coen, DMD, representing self

Regina Cobb, Dentist, Arizona Dental Association

Don Simpson, DDS, representing self

Robert Roda, Arizona Dental Association

Dr. Gary Jones, DDS, representing self

Sarah Cordero, Dental Student, Arizona Dental Association

Dr. Greg Pafford, DDS, representing self

Robert MacArthur, Dental Student, Arizona Dental Association

Question was called on the motion that the Ash eight-line amendment to HB2156 dated 2/14/11 (Attachment 31) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2156 as amended do pass. The motion carried by a roll call vote of 7-1-0-1 (Attachment 33).

HB2651 - AHCCCS; veterans - DO PASS

Vice-Chairman Carter moved that HB2651 do pass.

Amber Morin, Majority Intern, Appropriations Committee, explained that HB2651 requires the Arizona Health Care Cost Containment System (AHCCCS) screening agency to confirm if an applicant has served in the military, and if so, transmit the applicant's name to the Department of Veterans' Services (DVS) to determine if they are eligible for veterans' assistance benefits (Attachment 34).

Representative Ruben Gallego, sponsor, stated that the idea behind this bill is to identify veterans on or trying to get on AHCCCS who should be covered by Veterans Affairs (VA) health insurance. This has been done in other states, resulting in savings. He stated that there are still some issues to be worked on. Currently, there are checks made by AHCCCS; this bill enhances that to try to find some savings. No one will be removed from AHCCCS and it will not cost the state any money. In response to questions, he clarified that it is not known if it must be done in statute or not; if it is determined that it can be done through administrative rule, he will withdraw the bill.

Jennifer Carusetta, Chief Legislative Liaison, Arizona Health Care Cost Containment System (AHCCCS), neutral on HB2651, related that if it is believed that someone is eligible for VA benefits, AHCCCS is required to refer them to the VA. She understands that part of the concern by proponents is that the electronic application asks if someone has served in the military, which is not on the Department of Economic Security (DES) combined application for DES and AHCCCS services, so she is committed to work on that with the sponsor. She added that she received verification today that statutory authority is not needed to share information with the DVS, which was a previous concern. She responded to questions concerning assets that are counted by AHCCCS to determine eligibility.

Vice-Chairman Carter announced the names of those who signed up in support of HB2651 but did not speak:

Eddie Sissons, Executive Director, Arizona Foundation for Behavioral Health

Tara Plese, Arizona Association of Community Health Centers

Joan Serviss, Executive Director, Arizona Coalition to End Homelessness

Question was called on the motion that HB2651 do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 35).

HB2530 - board of dental examiners - DO PASS AMENDED

Vice-Chairman Carter moved that HB2530 do pass.

Vice-Chairman Carter moved that the Yee 15-line amendment to HB2530 dated 2/14/11 (Attachment 36) be adopted.

Jessica Gordon, Majority Intern, explained that HB2530 changes the definition of unprofessional conduct, updates the definition of the scope of practice and prohibits ownership interest in a business entity for a person with a suspended, surrendered or revoked license (Attachment 37). The amendment to HB2530 contains the following provisions (Attachment 36):

- Eliminates provisions allowing the Board of Dental Examiners to issue an order requiring the payment of restitution to a patient from an entity that has violated the Board's statutes or rules.
- Removes language excluding suspended, surrendered or revoked license holders from ownership interest in a business entity and replaces it with language stating that an individual holding a surrendered or revoked dentistry or dental hygienist license may not have ownership interest in a business entity.
- Allows one year for the licensee to divest themselves of the ownership.

Mrs. Yee, sponsor, stated that current law prohibits what is called rebate, but that term is archaic. In the present economy, specialists in oral care are providing "under the table" care for every patient that is referred by a general dentist, which goes against the ethical principles and code of professional conduct that is part of the American Dental Association. The bill updates the language for unprofessional conduct and clarifies what will be done in the situation for restitution.

Question was called on the motion that the Yee 15-line amendment to HB2530 dated 2/14/11 (Attachment 36) be adopted. The motion carried.

Vice-Chairman Carter announced the names of those who signed up in support of HB2530 but did not speak:

Kevin Earle, Executive Director, Arizona Dental Association
John MacDonald, Lobbyist, Arizona Dental Association
Dr. Greg Pafford, DDS, Arizona Dental Association
W. Brian Powley, DDS, Arizona Dental Association
Mark Hughes, representing self
Dr. Gary Jones, DDS, Arizona Dental Association
Fred Olsen, DDS, representing self
Dr. Bob Oro, DMD, representing self
Allison House, DMD, representing self
Shannon Coen, DMD, representing self
Don Simpson, DDS, representing self
Dr. Jason Dittberner, representing self; Arizona Dental Association
Terry Ramsey, DDS, Arizona Dental Association
Howard Sorensen, DDS, Arizona Dental Association
Ronald Giordan, Arizona Dental Association
Randolph Snyder, DMD, Arizona Dental Association
Regina Cobb, Dentist, Arizona Dental Association
Robert Roda, Arizona Dental Association
Sarah Cordero, Dental Student, Arizona Dental Association
Robert MacArthur, Dental Student, Arizona Dental Association

Vice-Chairman Carter moved that HB2530 as amended do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 38).

HB2384 - abortion; public funding prohibition; taxes - DO PASS AMENDED

Vice-Chairman Carter moved that HB2384 do pass.

Vice-Chairman Carter moved that the Ash three-line amendment to HB2384 dated 2/14/11 (Attachment 39) be adopted.

Ingrid Garvey, Majority Research Analyst, explained that HB2384 prohibits the use of public funds for abortion procedures to any person or entity that provides, pays for, promotes, provides coverage of or referrals for abortion and training related to abortion procedures that are paid by tuition or fees for students at an Arizona university or community college (Attachment 40). The amendment to HB2384 removes proposed language in Subsection A consisting of *who provides, pays for, promotes, provides coverage of or provides referrals for abortions or* (Attachment 39).

Representative Debbie Lesko, sponsor, stated that current law prohibits the use of taxpayer money for abortions; however, some loopholes have been identified, which this bill attempts to close. It prohibits public funding from being used for abortion training and prohibits

organizations that provide, pay for, promote, provide coverage of or provide referrals for abortions from receiving donations through the working poor tax credit.

Mr. Heinz noted that national accreditation requirements for obstetrics and gynecological training require the option to have accreditation for such training in the state. This language will compromise the ability for those programs to be accredited, which puts the state in jeopardy of losing residency training programs. Representative Lesko responded that she was approached by hospital lobbyists with that concern, which is one of the reasons the amendment was offered. She heard last night from another lobbyist from a different hospital about additional concerns, so she will be having a stakeholder meeting.

Beth Straley, Campaign Administrator, 40 Days For Life, representing self, spoke in favor of HB2384. She testified that she has spent days and long hours in front of various facilities in Phoenix that perform abortions to pray and be available if anyone wants to ask questions or receive information. She has witnessed women and young girls being strongly coerced to have abortions and she has seen them leaving after ending the life of their unborn child, sometimes sobbing, some in poor physical condition. She added that she and many other taxpayers do not want a penny of their money to go toward a facility that performs abortions.

James Hallgren, Assistant Prayer Coordinator, 40 Days for Life, representing self, spoke in favor of HB2384. He related that he has also witnessed the abhorrent condition women are left in physically, emotionally and psychologically after experiencing what is referred to as a “woman’s choice” to end the life of their unborn child. This bill guarantees that taxpayers will not be required to subsidize abortion procedures.

Chairman Ash referred to a letter from Bryan S. Howard, President/Chief Executive Officer, Planned Parenthood Arizona, in opposition to HB2384, which Vice-Chairman Carter read into the record (Attachment 41).

Theresa Ulmer, Consultant, Planned Parenthood Arizona, opposed HB2384. She pointed out that abortion is a legal medical procedure. She said 85 percent of Planned Parenthood services involve preventative care for the safety net that is growing every day, and this bill will limit access for people who are uninsured and underinsured. It will have no impact on reducing the number of legal medical procedures that is a moral dilemma. She added that taking away the tax credit will increase revenues, and therefore, trigger Proposition 108.

Mr. Heinz surmised that because the language in the bill is so expansive, it may impact the ability of community health centers to qualify for the tax credit since reproductive health is something for which they may provide referrals, although it is not their primary goal. Ms. Ulmer agreed that it will “cast a wider net” than just Planned Parenthood.

Gibson McKay, UA Healthcare, in opposition to HB2384, submitted that this bill will cause a serious accreditation issue because the Accreditation Council for Graduate Medical Education indicates that there must be some experience with this procedure as part of residency education. He said he will work with Representative Lesko to resolve the issue. He responded to questions concerning the requirement for written certification to the Department of Revenue and accreditation.

Cathi Herrod, President, Center for Arizona Policy, spoke in favor of HB2384. She conveyed that Maricopa County operates a joint obstetrics/gynecology residency program under Integrated Health Services with St. Joseph's Hospital. The accreditation issue arose in 2003 because the County had an affiliation agreement with Planned Parenthood to send residents there for abortion training. The County cancelled the contract, and since that time, the program has not lost its accreditation, nor has its accreditation been threatened. She read the accreditation requirement that addresses this issue, noting that this prohibition is allowed because of a legal restriction (passage of this bill).

She stated that Proposition 108 came up when the bill was drafted by Legislative Council where it was determined that it is not an issue. She added that if Planned Parenthood wishes to continue the abortion practice, it can separate into two organizations with the charitable work to help the working poor and other health services separate from the abortion referrals.

Vice-Chairman Carter announced the names of those who signed up in support of HB2384 but did not speak:

Sharon Slater, President, Family Watch International
Ron Johnson, Executive Director, Arizona Catholic Conference
Deborah Sheasby, Legal Counsel, Center for Arizona Policy
Patti Waldrup, representing self
Jennifer Patentreger, representing self
Janet Beddow, representing self

Vice-Chairman Carter announced the names of those who signed up as neutral on HB2384 but did not speak:

Jason Bezozo, Senior Program Director, Government Relations, Banner Health
Michelle Pabis, Assistant Government Relations Director, Scottsdale Healthcare
Esther Massimini, representing self
Stuart Goodman, Lobbyist, St. Joseph's Hospital and Medical Center

Vice-Chairman Carter announced the names of those who signed up in opposition to HB2384 but did not speak:

Kendra Waddell, representing self
Mark Jones, representing self
Brian Simpson, representing self
Vera Demchenko, representing self
Wayne Daniel, representing self
Emily Herrell, representing self
Bettina Bickel, representing self
Gini McGirr, Legislative Chair, League of Women Voters of Arizona
Mary Graf, representing self
Lauren Wiggins, representing self
Sandra Stock, representing self
Bob Segal, representing self
Linda Rosenthal, representing self
Barbara Klein, First Vice President, League of Women Voters Arizona, representing self

Judith Salzman, representing self
Sue E. Dean, representing self
Richard Undwerwood, representing self
Marabeth Malmgren, representing self
Hadassa Filler, representing self
Erika Jahneke, representing self
Katherine Boxley, representing self
Kam Majer, representing self
Kathleen Thompson, representing self
Malinda Briggs, representing self
Michelle Schwartz, representing self
Bryan Howard, President, Planned Parenthood Arizona
Ellen Meltzer, representing self
Brenda Young, representing self
Sheronda Jordan, representing self
Laura Carruthers, representing self
Anjali Abraham, Public Policy Director, American Civil Liberties Union of Arizona
Lindsay Simmons, Systems Advocacy Coordinator, Arizona Coalition Against Domestic
Violence
Kelly Damron, representing self
Stacey Champion, representing self

Ms. Garvey answered a query by stating that exceptions for an abortion because of rape, incest and the life or health of the mother are contained in another section of statute.

Ms. Hobbs expressed concern that organizations with advocates or counselors that work with individuals who become pregnant due to rape or incest or who have abusive husbands will not be able to inform individuals of the legal options that are available. Representative Lesko submitted that the bill specifically refers to organizations that provide referrals for abortions; it does not prohibit advising women of available options. If a nonprofit or community group refers people for abortions, they will not be able to receive donations for the working poor tax credit.

Mr. Heinz questioned if *promote* could be construed as listing options. Representative Lesko stated she does not see that as a problem.

Ms. Herrod, in response to a question, related that the Department of Revenue (DOR) is charged with certifying charities that qualify for the working poor tax credit. She speculated that non-directed options counseling that mentions abortion is not *promoting* abortion, but she will find out. The intent of the bill is that the public policy of the state for a very long time has been no taxpayer funding or support for abortion. The concern is that indirect subsidies are going on through the tax credit and taxpayers who find abortion abhorrent for various reasons should not be paying for referrals for or promotion of abortions. The language was taken from federal law.

Mr. Heinz asked if the bill is intended to restrict community health centers from qualifying for the working poor charitable tax credit, which provide services to female patients and at the request of a patient could communicate a list of options and provide a referral. Ms. Herrod responded that it is not the intent to single out any organization, and she does not know which

charities qualify under DOR. If an organization wants to provide or refer for abortions, that part of their services can become a separate entity from the other services provided that qualify for the working poor tax credit.

Ms. Herrod advised Ms. Hobbs that there is a state statutory exception to the ban on public funding for abortion for the life of the mother and if it is medically necessary; federal law contains an exception for rape and incest.

Mr. McKay advised that in relation to accreditation, part of the problem is Subsection C because UA Healthcare receives local match monies from Pima County, which is how it qualifies for significant graduate education monies from the Centers for Medicare and Medicaid Services (CMS), even with the amendment. Reference was made to Maricopa County and how this procedure has been done through St. Joseph's Hospital; however, Maricopa County does not operate the health system; it is operated by the Maricopa Integrated Health System (MIHS) with an independently elected board of directors.

Chairman Ash said he received a call from a county supervisor and asked if county organizations have some involvement. Ms. Herrod replied that when the voters approved the MIHS, the county supervisors made sure that what was going on with abortion training carried into the health district. There is a deed restriction that continues that policy, so the restriction is still in place as far as no public funding of abortion training.

Ms. Ulmer responded to questions about Planned Parenthood.

Question was called on the motion that the Ash three-line amendment to HB2384 dated 2/14/11 (Attachment 39) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2384 as amended do pass. The motion carried by a roll call vote of 6-3-0-0 (Attachment 42).

HB2213 - child custody; technical correction - DO PASS AMENDED S/E
S/E: developmentally disabled; terminology

Vice-Chairman Carter moved that HB2213 do pass.

Vice-Chairman Carter moved that the Ash 68-page strike-everything amendment to HB2213 dated 02/11/2011 (Attachment 43) be adopted.

Amber Morin, Majority Intern, Appropriations Committee, explained that the strike-everything amendment to HB2213 updates terminology relating to individuals who are developmentally disabled throughout the Arizona Revised Statutes (Attachment 44).

Chairman Ash, sponsor, stated that he hopes this will be a bipartisan bill, noting that some work remains to be done. He has a letter from the Department of Economic Security with further suggestions to improve the bill.

Kate Fassett, Special Olympics Arizona, spoke in favor of the strike-everything amendment to HB2213. She said this legislation removes language that is offensive to about 180,000 Arizonans who are developmentally disabled and replaces it with *people with intellectual disabilities* and *people with physical disabilities*. It is modeled after federal legislation that was recently passed and signed into law.

Chairman Ash announced the names of those who signed up in support of the strike-everything amendment to HB2213 but did not speak:

Norman Moore, Attorney, Special Olympics Arizona

Susan Cannata, Attorney, The Arc of Arizona

Question was called on the motion that the Ash 68-page strike-everything amendment to HB2213 dated 02/11/2011 (Attachment 43) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2213 as amended do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 45).

Without objection, the meeting adjourned at 7:11 p.m.

Linda Taylor, Committee Secretary
March 7, 2011

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