SB 1034: committee of reference; standing committee

PRIME SPONSOR: Senator Kavanagh, LD 23

BILL STATUS: Caucus & COW

GOV: DPA 7-0-0-1

Legend:
ADHS – Arizona Department of Health Services
COR – Committee of Reference
Amendments – BOLD and Stricken (Committee)

Abstract
Relating to COR membership and the sunrise process for health professionals.

Provisions

Sunrise Process

1. REQUIRES THE STANDING COMMITTEES, RATHER THAN THE COR, TO CONSIDER SUNRISE APPLICATIONS. (Sec. 1, 3-5) (GOV)

2. REQUIRES A SUNRISE APPLICATION TO BE SUBMITTED BY NOVEMBER 1, RATHER THAN SEPTEMBER 1. (Sec. 3) (GOV)

3. PERMITS THE COMMITTEES TO HOLD INFORMATIONAL HEARINGS ON THE SUNRISE APPLICATION BEFORE THE LEGISLATIVE SESSION CONvenes. (Sec. 3) (GOV)

4. PERMITS A SUNRISE APPLICANT TO REQUEST AN INFORMATIONAL HEARING. (Sec. 3) (GOV)

5. DIRECTS THE PRESIDENT AND THE SPEAKER TO ASSIGN A SUNRISE APPLICATION TO THE HEALTH COMMITTEE OF THE HOUSE AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE OR THEIR SUCCESSOR COMMITTEES. (Sec. 3) (GOV)

6. ALLOWS A SUNRISE APPLICATION TO BE AMENDED PRIOR TO ANY HEARING. (Sec. 3) (GOV)

7. REMOVES THE REQUIREMENT THAT THE COR DELIVER A REPORT OF ITS RECOMMENDATIONS TO THE LEGISLATURE, GOVERNOR AND APPROPRIATE REGULATORY BOARD BY DECEMBER 1. (Sec. 3) (GOV)

8. PERMITS THE COMMITTEES TO TAKE PUBLIC COMMENT ON A SUNRISE APPLICATION AT AN INFORMATIONAL HEARING. (Sec. 3) (GOV)

9. PROHIBITS THE COMMITTEES FROM VOTING ON WHETHER TO ACCEPT OR REJECT A SUNRISE APPLICATION. (Sec. 3) (GOV)

10. PERMITS A SUNRISE APPLICANT FOR INCREASED SCOPE OF PRACTICE TO SEND COPIES OF THE SUNRISE APPLICATION TO THE APPROPRIATE REGULATORY BOARD AND ADHS FOR REVIEW AND COMMENT. (Sec. 3) (GOV)
    o Currently, an applicant is required to send copies of a sunrise application to the appropriate regulatory board (A.R.S. § 32-3104).

11. REMOVES THE REQUIREMENT FOR THE APPROPRIATE REGULATORY BOARD TO MAKE RECOMMENDATIONS BASED ON A SUNRISE APPLICATION FOR INCREASED SCOPE OF PRACTICE. (Sec. 3) (GOV)

☐ Prop 105 (45 votes)  ☐ Prop 108 (40 votes)  ☐ Emergency (40 votes)  ☐ Fiscal Note
12. ALLOWS A SUNRISE APPLICANT TO SEEK TO INTRODUCE LEGISLATION:
   a. REGARDLESS OF ANY COMMENTS FROM THE INFORMATIONAL HEARING; OR
   b. IF THE SUNRISE APPLICATION IS NOT HEARD BY THE COMMITTEES. (Sec. 3) (GOV)

13. PROHIBITS THE LACK OF A HEARING FROM BEING CONSTRUED AS SUPPORT OR REJECTION OF THE PROPOSED LEGISLATION. (Sec. 3) (GOV)

14. SPECIFIES THAT A SUNRISE APPLICANT IS NOT REQUIRED TO REFILE A REPORT THAT HAD BEEN FILED IN THE PRIOR FIVE YEARS, UNLESS THERE IS A MATERIAL CHANGE IN THE PROPOSED INCREASED SCOPE OF PRACTICE. (Sec. 3) (GOV)

15. REQUIRES A SUNRISE APPLICANT TO:
   a. NOTIFY THE LEGISLATURE IN WRITING, BY DECEMBER 1, IF THE APPLICANT INTENDS TO PURSUE A PERVERIOUSLY FILED APPLICATION FOR AN INCREASED SCOPE OF PRACTICE IN THE NEXT LEGISLATIVE SESSION; AND
   b. REFERENCE THE SPECIFIC SUNRISE APPLICATION THAT WAS PREVIOUSLY FILED. (Sec. 3) (GOV)

   Regulation Criteria (Sec. 2)

16. SPECIFIES THAT REGULATION MAY NOT BE IMPOSED ON A HEALTH PROFESSION FOR THE PURPOSE OF PROHIBATING COMPETITION.

17. MODIFIES THE CRITERIA FOR REGULATION TO SPECIFY THAT THERE MUST BE CREDIBLE EVIDENCE THAT UNREGULATED PRACTICE CAN CLEARLY HARM OR ENDANGER THE PUBLIC HEALTH, SAFETY OR WELFARE.
   o Currently, credible evidence is not required (A.R.S. § 32-3103).

18. SPECIFIES THAT THE REQUIREMENT FOR IMPLEMENTATION OF THE LEAST RESTRICTIVE ALTERNATIVE METHOD OF REGULATION MUST BE DONE TO ADDRESS A SPECIFIC HARM OR DANGER.

   Sunrise Factors

19. REMOVES THE REQUIREMENT THAT A SUNRISE APPLICATION PROVIDE A DEFINITION OF THE PROBLEM. (Sec. 4, 5) (GOV)

20. MODIFIES SUNRISE FACTORS FOR INCREASED SCOPE OF PRACTICE AS FOLLOWS:
   a. REQUIRES AN APPLICANT TO EXPLAIN:
      i. WHY A CHANGE IS BENEFICIAL, RATHER THAN NECESSARY;
      ii. WHETHER THE HEALTH PROFESSIONALS CURRENTLY HAVE OR WILL BE REQUIRED TO HAVE DIDACTIC AND CLINICAL EDUCATION FROM ACCREDITED SCHOOLS OR TRAINING FROM RECOGNIZED PROGRAMS THAT PREPARE THEM TO PERFORM THE PROPOSED SCOPE OF PRACTICE, AND DETAILS ON WHAT THE EDUCATION OR TRAINING INCLUDES;
      iii. WHETHER THE SUBJECT MATTER IS CURRENTLY TESTED BY NATIONALLY RECOGNIZED AND ACCEPTED EXAMINATIONS FOR APPLICANTS FOR LICENSURE AND THE DETAILS OF THE EXAMINATION;
      iv. THE EXTENT TO WHICH THE INCREASED SCOPE OF PRACTICE WILL IMPACT THE PRACTICE OF THOSE CURRENTLY LICENSED OR THE ENTRY OF INDIVIDUALS RELOCATING FROM OTHER STATES WITH SUBSTANTIALLY EQUIVALENT LICENSURE REQUIREMENTS.
      v. THE EXTENT TO WHICH THE INCREASED SCOPE OF PRACTICE MAY RESULT IN SAVINGS TO THE STATE.
      vi. RELEVANT HEALTH PROFESSIONAL LICENSURE LAWS IN OTHER STATES; AND
vii. **RECOMMENDATIONS FROM THE APPLICABLE REGULATORY ENTITY, ADHS AND ACCREDITED EDUCATIONAL OR TRAINING PROGRAMS.**

b. **REMOVES THE REQUIREMENT FOR AN APPLICANT TO EXPLAIN:**
   i. **THE EXTENT TO WHICH THE PUBLIC CAN BE CONFIDENT THAT QUALIFIED PRACTITIONERS ARE COMPETENT;**
   ii. **THE EXTENT TO WHICH AN INCREASE IN THE SCOPE OF PRACTICE MAY HARM THE PUBLIC, INCLUDING RESTRICTING ENTRY INTO PRACTICE; AND**
   iii. **WHETHER THE PROPOSED LEGISLATION REQUIRES PRACTITIONERS IN OTHER JURISDICTIONS WITH SUBSTANTIALLY EQUIVALENT LICENSING REQUIREMENTS WHO MOVE TO THIS STATE TO QUALIFY IN THE SAME MANNER AS STATE APPLICANTS.** *(Sec. 5) (GOV)*

21. **REQUIRES THE LEGISLATURE TO REVIEW ANY LEGISLATION TO INCREASE A SCOPE OF PRACTICE ACCORDING TO THE FOLLOWING CRITERIA:**
   a. **THAT ANY LIMIT ON SCOPE OF PRACTICE MUST ONLY BE TO PROTECT THE PUBLIC FROM A SPECIFIC HARM OR DANGER;**
   b. **WHETHER THE ADDITION OF ADEQUATELY TRAINED HEALTH PROFESSIONALS PROVIDING AN EXPANDED RANGE OF SERVICES WILL BENEFIT THE PUBLIC AND INCREASE ACCESS TO SAFE, QUALITY CARE; AND**
   c. **WHETHER ANY CHANGES IN THE PROFESSION’S REGULATORY ENTITY ARE NECESSARY TO ADEQUATELY PROTECT THE PUBLIC.** *(Sec. 5) (GOV)*

22. **PROHIBITS THE LEGISLATURE, WHEN REVIEWING LEGISLATION TO INCREASE THE SCOPE OF PRACTICE, FROM CONSIDERING:**
   a. **COMPETITION FROM OR WITH OTHER LICENSED PROFESSIONS; AND**
   b. **THE ABILITY OR INABILITY TO OBTAIN HEALTH INSURANCE COVERAGE FOR THE INCREASED SCOPE OF PRACTICE.** *(Sec. 5) (GOV)*

**Legislative CORs**

24. **Modifies COR membership to be the standing committee of the House of Representatives or Senate for the purpose of conducting sunrise reviews FOR NON-HEALTH PROFESSIONS and sunset reviews.** *(Sec. 7, 8) (GOV)*

25. **Permits the CORs to meet jointly for sunset reviews.** *(Sec. 8)*

26. ** Requires the CORs to hold at least one public hearing when the Legislature is not in session or before the third Friday in January, when conducting a sunset review.** *(Sec. 8)*
   - **Currently, there is no specified timeframe for a public hearing** *(A.R.S. § 41-2954).*

27. **Extends the deadline for the COR to submit a final sunrise report FOR NON-HEALTH PROFESSIONS or a sunset report from December 1, to the third Friday in January.** *(Sec. 6, 8) (GOV)*

**Miscellaneous**

28. **Makes technical and conforming changes.** *(Sec. 1-5, 7, 8) (GOV)*

**Current Law**

Each standing committee of both Legislative houses is required to appoint a subcommittee of five members. This subcommittee jointly constitutes a COR in its respective subject area.

**Sunset Reviews**

When an agency goes through the sunset review process, the COR is required to hold a public hearing to consider multiple factors relating to the agency and receive public testimony. After the hearing, the COR must issue a final sunset review report, which must include a written statement, containing
recommendations of whether the agency should be continued, revised, consolidated or terminated (A.R.S. § 41-2954).

Sunrise Reviews
Regulation is prohibited from being imposed on any unregulated health profession, except for the exclusive purpose of protecting the public. All proposed legislation to regulate a profession must be reviewed according to specified criteria. If the Legislature finds it necessary to regulate a profession, the least restrictive alternative method is required to be implemented, which must be consistent with the statutorily outlined requirements (A.R.S. § 32-3103).

Applicants for regulation or increased scope of practice must submit a report explaining sunrise factors to the Legislature by September 1. The report is assigned to the appropriate COR, which holds hearings as necessary, studies the report and develops recommendations for legislation (A.R.S. § 32-3104).

A.R.S. §§ 32-3105 and 32-3106 outline sunrise factors for regulation and increased scope of practice of health professions.

Non-health professions may also submit a sunrise application for regulation (A.R.S. § 32-4402). The sunrise factors for non-health professions are outlined in A.R.S. § 32-4403.