

ARIZONA HOUSE OF REPRESENTATIVES  
Forty-ninth Legislature – Second Regular Session

**COMMITTEE ON BANKING AND INSURANCE**

Minutes of Meeting  
Monday, February 1, 2010  
House Hearing Room 5 -- 2:00 p.m.

Chairman McLain called the meeting to order at 2:32 p.m. and attendance was noted by the secretary.

**Members Present**

Mr. Ash	Mr. Meza	Mr. Quelland, Vice-Chairman
Mr. Bradley	Mr. Seel	Mrs. McLain, Chairman
Mr. Campbell CL	Mr. Tobin	

**Members Absent**

None

**Committee Action**

HB2025 – DP (8-0-0-0)	HB2463 – DP (7-0-0-1)
HB2132 – Discussed and Held	HB2464 – DP (7-1-0-0)
HB2326 – DP (8-0-0-0)	HB2465 – Held

**CONSIDERATION OF BILLS:**

**HB2465 – limited liability; physicians; examinations – HELD**

Chairman McLain announced that HB2465 will be held.

**HB2025 – chiropractic services – DO PASS**

Vice-Chairman Quelland moved that HB2025 do pass.

Heidi Nitz, Majority Intern, stated that HB2025 updates the language specifying what types of treatment a chiropractor may engage in and establishes requirements regarding the maintenance of patients' records for business entities that provide chiropractic services (Attachment 1).

Barry Aarons, representing Arizona Association of Chiropractic, spoke in support of HB2025. He advised that this bill is a combination of HB2160 and HB2210 heard in this Committee last year which dealt with identical issues. This bill reflects what chiropractors currently do, what is being taught in the chiropractic colleges and what chiropractors are trained, licensed and certified

to do. It does not change the scope of their practice. It updates definitions and requires that a business who hires a chiropractor can release patient records when the chiropractor leaves the business.

Vice-Chairman Quelland announced the names of those who signed up in support of HB2025 but did not speak:

James Hamilton, Lobbyist, Activator Health Centers

**Question was called on the motion that HB2025 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 2).**

**HB2326 – probate proceedings; burden of proof – DO PASS**

**Vice-Chairman Quelland moved that HB2326 do pass.**

Heidi Nitz, Majority Intern, advised that HB2326 establishes “preponderance of evidence” as the burden of proof for probate and creates guidelines for handling governing instruments (Attachment 3).

Mr. Seel queried whether this is clean-up language to help probate run smoother. Ms. Nitz deferred that question to the sponsor.

Mr. Ash, sponsor, said this clean-up language was brought to him by the State Bar of Arizona.

Vice-Chairman Quelland announced the names of those who signed up in support of HB2326 but did not speak:

Allison Bell, Arizona Chamber of Commerce & Industry

Ramon Garcia, representing self

Janna Day, Lobbyist, State Bar of Arizona

**Question was called on the motion that HB2326 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 4).**

**HB2132 – medicare supplement; end-stage renal disease – DISCUSSED AND HELD**

**Vice-Chairman Quelland moved that HB2132 do pass.**

Rene Guillen, Majority Research Analyst, related that HB2132 requires insurers providing Medicare supplemental insurance, or Medigap insurance, to those over 65 to offer coverage to people under 65 on Medicare due to disability or end-stage renal disease (Attachment 5).

**Vice-Chairman Quelland moved that the McLain three-line amendment dated 1/29/10 to HB2132 be adopted (Attachment 6).**

Mr. Guillen explained that the three-line amendment strikes language pertaining to premiums being excessive or unfairly discriminatory (Attachment 6).

Wendy Schrag, Director of Advocacy & State Government Affairs, Fresenius Medical Care, spoke in support of HB2132. She explained that under current Medicare law, people with kidney failure or end-stage renal disease (ESRD) qualify for Medicare coverage regardless of age. In Arizona, people under 65 years of age do not have the opportunity to purchase private supplementary insurance coverage. This bill gives Medicare beneficiaries under the age of 65 the same rights to purchase secondary insurance as those over the age of 65. She related that 29 other states have already updated their laws in the same manner. She stated that passage of this bill will save the state money since fewer people would become reliant on the Arizona Health Care Cost Containment System (AHCCCS). Some dialysis patients are forced to enroll in the AHCCCS program and the state becomes responsible for the 20 percent co-payment that Medicare does not cover for these patients. She encouraged Members to vote in favor of this bill.

In reply to Mr. Ash, Ms. Schrag said she does not know if there is opposition to this legislation. She said that only five companies offer this insurance.

In reply to Vice-Chairman Quelland, Ms. Schrag explained that charges could be different because some people require different types or amounts of medication. Billing would depend on how much is allowed under Medicare or AHCCCS or private insurance policies.

Reza Mohassessi, Actuary, representing self, testified as being neutral on HB2132. He said he conducted an analysis of the financial impact that HB2132 will have and found that this bill impacts the financial condition of patients, state government, health care providers and insurance companies in many different ways. He presented reasons for allowing Medigap coverage to be available for disabled people under the age of 65: (1) removes the financial incentives of non-compliance with appropriate protocols of treatment, increasing early treatment and survival rates and reducing expensive procedures and (2) shifts the source of financing the cost-sharing portion of Medicare away from the individual, reducing the likelihood of the patient ending up in the AHCCCS program. It is estimated that the savings to the state might be in excess of \$11 million over three years.

Mr. Seel asked where the cost will be shifted to. Mr. Mohassessi said that the ultimate cost will be paid by society as a whole.

Discussion ensued on costs.

In reply to Mr. Tobin, Mr. Mohassessi advised that this will affect approximately 750 patients; over 700 patients with kidney disease and 360 patients on dialysis.

Harley Harlinton, representing self, in support of HB2132, advised that he is 64 years old, has end-stage kidney disease and has been on dialysis for one year. He qualified for Medicare but is ineligible for the AHCCCS program because of his disability benefit from social security. He is not able to qualify for additional insurance because of his kidney failure although he has tried many times to get a Medigap policy. He related that he and his wife made the decision to divorce in order for him to qualify for AHCCCS coverage. He maintained that dialysis patients in Arizona should not have to make that kind of decision. This bill gives the same rights to disabled individuals under 65 years of age as it does to those over 65. He asked Members to support this legislation.

Suzann Reisenauer, Financial Coordinator, Fresenius Medical Care; representing self, spoke in favor of HB2132. She revealed her job scope is to help dialysis patients obtain health insurance coverage to pay for dialysis services at 100 percent. A handout was distributed to Members (Attachment 7).

In response to Mr. Tobin, Ms. Reisenauer said that few plans offer a Medigap plan. Of those that do offer coverage, the premiums generally are the same as the out-of-pocket expenses the patient would be responsible for after Medicare pays. This bill provides the opportunity to purchase coverage as well as reduces the cost to the state and to providers.

In response to questions asked by Vice-Chairman Quelland, Ms. Reisenauer said she does not believe this is a mandate. She related that at age 65, people will be released from this.

Mr. Seel asked whether a facility will receive the same amount from a patient who has a Medigap policy as it receives from a Medicare patient. Ms. Reisenauer said the rate would be the same.

Mr. Seel questioned how this will benefit a person such as Mr. Harlinton. Ms. Reisenauer answered that he would no longer be stressed about how his medical expenses will be covered.

Don Hughes, Lobbyist, America's Health Insurance Plans, expressed opposition to HB2132. He acknowledged that this is a very emotional issue; however, the reality is that this bill is a mandate. The bill says that if an insurer sells Medicare supplemental insurance policies to the disabled and people with end-stage renal disease (ESRD) who are over 65, the insurer must sell the exact same policies to the under-65 disabled and ESRD market. In two recent studies by the American Academy of Actuaries, it was found that the cost for the under-65 market would be twice as high as the cost for the over-65 market. Another study showed that in the under-65 market, the cost of ESRD patients was \$4,000 a month, while the monthly cost for ESRD patients for the over-65 market was \$700, and the costs for premiums would be doubled due to the higher costs. He related that the Department of Insurance (DOI) has on its website a premium comparison shopping guide for licensed insurers who sell supplemental insurance. The average premium for the over-65 market is \$280 compared to \$580 to over \$1,000 a month for the under-65 market. If insurers sold to the under-65 market, premiums would have to increase by 28 percent to cover claims.

Mr. Seel asked who would have to bear the cost of this. Mr. Hughes replied that the Medicare supplemental policyholders would pay the cost.

Vice-Chairman Quelland announced the names of those who signed up in support of HB2132 but did not speak:

Joseph Abate, representing Fresenius Medical Care

Ramon Garcia, representing self

David Carey, Arizona Bridge to Independent Living

Barry Aarons, representing DaVita

Daleen Quintana, Social Worker, representing self

Amy Weissman-Hunt, Social Worker, Fresenius Medical Care

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

Lanny Hair, Executive Vice President, Independent Insurance Agents & Brokers of Arizona  
Michelle Bolton, Vice President of Public Affairs, Greater Phoenix Chamber of Commerce  
Allison Bell, Arizona Chamber of Commerce & Industry  
Genevra Richardson, Director of Government Relations, United Healthcare  
Kelsey Lundy, Lobbyist, United Healthcare  
Henry Grosjean, President, Arizona Association of Insurance & Financial Advisors

Vice-Chairman Quelland announced the names of those who signed up as neutral on HB2132 but did not speak:

Karlene Wenz, Legislative Liaison, Department of Insurance

**Chairman McLain announced that HB2132 does not have enough votes for passage so the bill will be held.**

**Vice-Chairman Quelland withdrew his motion that the McLain three-line amendment dated 1/29/10 to HB2132 be adopted (Attachment 6). The motion carried.**

**Vice-Chairman Quelland withdrew his motion that HB2132 do pass. The motion carried.**

### **HB2463 – auto glass repair; fraudulent practices – DO PASS**

**Vice-Chairman Quelland moved that HB2463 do pass.**

Rene Guillen, Majority Research Analyst, stated that HB2463 institutes a series of unlawful practices for persons providing auto glass services and classifies violations as a Class 6 felony (Attachment 8).

Mr. Seel referred to the provision on presumption of guilt as opposed to the standard presumption of innocence. Mr. Guillen stated that provision refers to the instruction to the court relating to an established pattern of activity. Mr. Seel asked whether the burden is on the prosecutor to prove guilt. Mr. Guillen replied in the affirmative.

Don Isaacson, representing State Farm Insurance, in support of HB2463, related that the Legislature changed existing law 22 years ago to require a zero deductible for glass. Currently, there is a marketing practice by some auto glass retailers at car washes touting glass repair or replacement without cost to the owner of the vehicle. In the past few years, this has become a problem with a 76 percent increase in questionable claims filed as reported by the National Insurance Crime Bureau. This bill contains a list of the most common fraudulent practices by the auto glass industry but does not penalize for an isolated mistake. In addition the bill prohibits a pattern of activity where a person has knowledge of a prohibited activity, with the intent to injure, defraud or deceive, and that gives rise to a Class 6 felony. He stated that the Department of Insurance (DOI) said that this bill should address auto glass repair fraud that has become prevalent over the years.

Vice-Chairman Quelland noted that no one representing the glass retailers or the Attorney General's Office is in attendance. He cautioned about doing anything without a stakeholder meeting.

Vice-Chairman Quelland asked whether this is a turf battle between insurers and the glass retailers. Mr. Isaacson said he would not characterize this as a turf battle when it rises to a level of costing everyone in the state.

Mr. Seel urged Mr. Isaacson to try to involve leadership of the glass industry so they can police their own industry.

Kerry Hayden, Government Affairs Representative, Farmers Insurance Group of Companies, expressed support of HB2463. She concurred with Mr. Isaacson's comments.

Rex Altree, President, Arizona Auto Glass Association, spoke against HB2463. He related that within the past ten years, there were three stings on the auto glass industry and eight to ten people were found guilty. He stated that industry has worked very hard to clean up the problems it had. He said he thinks Mr. Isaacson made some gross generalizations in his testimony.

Mr. Seel asked Mr. Altree if he would meet with the Attorney General and the insurance industry. Mr. Altree replied in the affirmative. He said he is very disappointed that they were not able to do that earlier.

Vice-Chairman Quelland asked Mr. Altree if he believes this is a battle between the insurance companies and the glass people. Mr. Altree said he feels that is the case.

Vice-Chairman Quelland queried whether the fraud is by the glass people or by the policyholder. Mr. Altree replied that if Mr. Isaacson's comments are accurate, then the policyholders must be involved. Mr. Isaacson said he referred to fraud by the auto glass providers, not the policyholders.

Chairman McLain questioned whether any of the 60 members of the Association have been investigated. Mr. Altree said he is not aware of any of his members who have been under investigation. He advised that there are hundreds of companies representing themselves as auto glass companies who are independent providers. The Association has no authority or influence over them.

In response to Chairman McLain, Mr. Altree said the Association is opposed to this legislation because of the way the bill is written. The Association believes the language is too broad and fraud already is against the law. He also questioned the Class 6 felony penalty.

Kerry Soat, representing self, in opposition to HB2463, stated that he is the Vice President of the Arizona Glass Association. He related that a lot of the provisions of the bill are currently in statute. The language is vague. He said that he never has contact with the insurance company; he talks to a third party for approval, so he believes everyone would be in violation under this legislation. He noted there is a multitude of ways in auto repair to commit fraud and that this is a complicated issue. He questioned the standards and asked who decides the standards. He again

stated that the provisions in this bill are already against the law and questioned the need for the bill.

Vice-Chairman Quelland announced the names of those who signed up in support of HB2463 but did not speak:

Norman Moore, Attorney, State Farm Insurance  
Lanny Hair, Executive Vice President, Independent Insurance Agents & Brokers of Arizona  
David Childers, Lobbyist, Property Casualty Insurers Association of America  
Joseph Abate, representing Belron US  
Greg Stanton, Director of Legislative Affairs, Attorney General's Office  
Ramon Garcia, representing self  
J. Michael Low, Attorney, Allstate, American Family and Metropolitan Life  
Don Hughes, Lobbyist, Property and Casualty Insurance Association of America  
Becky Sanchez, Government Affairs Counsel, American Family Insurance  
Wendy Briggs, Lobbyist, American Insurance Association  
Cinda Smith, Senior Counsel, GEICO  
Ellen Poole, Executive Director, SW Region Government Relations, USAA

Vice-Chairman Quelland announced the names of those who signed up in opposition to HB2463 but did not speak:

Jim Barnett, representing self  
Michael Debord, representing self  
David Kaleel, representing self  
Robert Harris, representing self  
Karen Cimaglia, representing self  
Jim Vann, representing self  
Dennis Hall, representing self  
Robert Hittenberger, President, Arizona Glass Association  
Mike Howell, General Manager, representing self  
Kevin Burson, Sales Rep, representing self  
Jeff Searles, President, Auto Glass Shop, representing self  
Gerald Salko, Manager, representing self  
Frank Thomas, representing self  
Suzy Jones, representing self  
Jed Holmen, glass representative, representing self  
Jeph Weeler, representing self  
Jack Alexandar, representing self  
Cindy Ketcherside, representing self  
Randy Maddux, representing self

Vice-Chairman Quelland announced the names of those who signed up as neutral on HB2463 but did not speak:

Karlene Wenz, Legislative Liaison, Department of Insurance

Mr. Ash asked Mr. Soat if he would be willing to work with the insurance companies. Mr. Soat replied in the affirmative.

**Question was called on the motion that HB2463 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 9).**

**HB2464 – automobile insurance; safety equipment – DO PASS**

**Vice-Chairman Quelland moved that HB2464 do pass.**

Rene Guillen, Majority Research Analyst, explained that HB2464 permits insurers providing comprehensive automobile coverage to decide whether the insurer will offer coverage for safety equipment without any regard to the insurer's deductible (Attachment 10).

Kerry Hayden, Government Affairs Representative, Farmers Insurance Group of Companies, testified in support of HB2464. She advised that the Legislature passed a law 22 years ago that required insurance companies who were going to offer comprehensive automobile coverage in Arizona to offer all customers a zero deductible on safety equipment. Currently, Arizona is only one of two states that require a zero deductible for this coverage. This legislation changes language from *shall* to *may*. She revealed that the number of glass claims and the cost per claim filed against Farmers are the highest in the country. This legislation changes the law from a mandate to letting the market decide.

Chairman McLain asked whether an insurance company can still offer coverage with no deductible. Ms. Hayden replied in the affirmative.

Mr. Seel asked whether insurers will offer a lower premium product to insureds if this coverage is optional. Ms. Hayden answered that is one potential. She said she believes the cost savings of about \$265 could be passed on to the consumers.

Cindy Ketcherside, representing self, testified in opposition to changing the language from *shall* to *may*. The Legislature passed the auto glass safety law 22 years ago by an overwhelming majority. She revealed that the windshield is part of the structural integrity of the vehicle and is one of the safety mechanisms of the vehicle. Windshields hold the roof up in a roll-over accident. In addition, airbags need a windshield to deploy. Safety glass protects occupants in a vehicle when the vehicle is involved in an accident. If this bill passes, it takes the decision of safety away from Arizona residents. She maintained that the decision should be left to the insured, not the insurer.

Mr. Ash asked whether a simple chip impairs the integrity of the windshield. Ms. Ketcherside said that is currently being researched.

Rex Altree, President, Arizona Auto Glass Association, spoke against HB2464. He pointed out that currently there is no mandated law of what insurance companies can charge for this coverage. If they are losing money on this coverage, they can charge more.

Chairman McLain asked why Arizona is only one of two states with this mandate. Mr. Altree said he has heard that the heat in Arizona causes chips and affects glass safety. He stated that current law protects the general public.



Kerry Soat, representing self, in opposition to HB2464, listed the states with zero deductible glass coverage: Massachusetts, Kentucky, Florida, Arizona, South Carolina and Minnesota. In addition, a bill for zero deductible is being introduced in Mississippi.

Ms. Hayden clarified that in her testimony she was referring to the two states with zero deductible covered by Farmers.

Becky Sanchez, Government Affairs Counsel, American Family Insurance, in support of HB2464, advised that in 2009, Arizona and Minnesota had the highest number of claims in states in which they operate. The common denominator is zero deductible.

Mr. Ash asked whether American Family Insurance has a buy-back policy. Ms. Sanchez said that depends on the customers' needs.

In response to Chairman McLain, Ms. Sanchez said that her company has to offer a zero deductible in Arizona and Minnesota.

Mr. Tobin noted that insurance companies often take away discounts or points if an insured has multiple glass claims.

Vice-Chairman Quelland announced the names of those who signed up in support of HB2464 but did not speak:

Don Isaacson, Attorney, State Farm Insurance  
Norman Moore, Attorney, State Farm Insurance  
Lanny Hair, Executive Vice President, Independent Insurance Agents & Brokers of Arizona  
J. Michael Low, Attorney, Allstate  
Don Hughes, Lobbyist, Property and Casualty Insurance Association of America  
Wendy Briggs, Lobbyist, American Insurance Association

Vice-Chairman Quelland announced the names of those who signed up in opposition to HB2464 but did not speak:

Robert Hittenberger, President, Arizona Glass Association  
Mike Howell, General Manager, representing self  
Kevin Burson, Sales Representative, representing self  
Pat Kiser, Sales Representative, representing self  
Jeff Searles, President, Auto Glass Shop  
Gerald Salko, Manager, Auto Glass Shop  
Frank Thomas, representing self  
Suzy Jones, representing self  
Jed Holmen, Glass Representative, representing self  
Jeph Weeler, representing self  
Jack Alexandar, representing self  
Randy Maddux, representing self

Vice-Chairman Quelland announced the names of those who signed up as neutral on HB2464 but did not speak:

Karlene Wenz, Legislative Liaison, Department of Insurance

**Question was called on the motion that HB2464 do pass. The motion carried by a roll call vote of 7-1-0-0 (Attachment 11).**

Without objection, the meeting adjourned at 5:03 p.m.

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Joanne Bell, Committee Secretary  
February 8, 2010

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