

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

**COMMITTEE ON HEALTH**

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

Chairman Carter called the meeting to order at 10:09 a.m. and attendance was noted by the secretary.

**Members Present**

Mrs. Brophy McGee  
Mrs. Gonzales  
Mr. Lovas

Mr. Meyer  
Ms. Steele  
Ms. Townsend

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

**Members Absent**

None

**Committee Action**

HB2043 – DISCUSSED & HELD  
HB2401 – DPA (8-0-0-0)  
HB2402 – HELD BY CHAIRMAN

HB2513 – DPA (7-0-0-1)  
HB2521 – DP (6-0-0-2)

Chairman Carter welcomed practicing dentists who are members of the Arizona Dental Association and students from Midwestern University and A.T. Still University.

**PRESENTATION**

Steve Barclay, Arizona Dental Association, said he has represented the Mayo Clinic for 24 years and has seen the organization grow in the Valley. He is proud of its accomplishments for the betterment of patients in Arizona and around the world. He introduced Dr. Russell I. Heigh and Christopher Benson, Administrative Chair, Mayo Clinic Care Network, Southwest.

Dr. Russell I. Heigh, Medical Director, Mayo Clinic Care Network, Southwest, provided a presentation on how the Mayo Clinic is working collaboratively in Arizona and across the nation to improve healthcare through innovation (Attachment 1), which included:

- Mayo Clinic Overview
- Mayo Clinic Care Network in the U.S. and Arizona
- Significant Connections to Mayo Clinic:
  - eConsults

- AskMayoExpert
- Healthcare Consulting
- Additional Mayo Clinic Outreach Activities
  - Telestroke and teleneurology network
  - Mayo Medical Lab services
  - Supply chain consortium
  - Specialty pharmacy services
  - Medical education activities

Chairman Carter thanked Dr. Heigh for his work, not only in north Phoenix, but across the state. She noted the building of a biomedical hub in the north Phoenix corridor is something the legislators will probably receive information about in the future, which is why she wanted to give Dr. Heigh an opportunity to share what is happening at Mayo Clinic. She asked if the Proton Beam Therapy facility is the only one west of the Mississippi River. Dr. Heigh related there may be others, but the Mayo Clinic will be a good resource for Arizona residents, as well as the western part of the country.

Chairman Carter noted that there is a partnership in training doctors at the Mayo Clinic and asked how many students are in the program. Dr. Heigh responded that he does not know the number of students and informed the Members of programs at the Clinic.

Chairman Carter stated that students in the medical program not only obtain a medical degree, but also the business model of how to run a successful practice, which is unique.

## **CONSIDERATION OF BILLS**

### **HB2402 – indoor tanning; minors; restricted use – HELD BY CHAIRMAN**

**Chairman Carter announced that HB2402 will be held.**

Chairman Carter, sponsor, stated that the use of indoor tanning salons and minors' use of the salons, was brought to her attention, and stakeholder meetings are still being held. She surmised that legislation will be available for the Committee to vote on next year and encouraged anyone interested in participating in the stakeholder meetings to contact her office via the legislative website and provide their name, affiliation and contact information.

### **HB2401 – service animal; definition – DO PASS AMENDED**

**Vice-Chairman Boyer moved that HB2401 do pass.**

Maritza Heras, Majority Intern, explained that HB2401 updates the definition of *service animal* (Attachment 2). The Carter 19-line amendment to HB2401 dated 2/11/13 (Attachment 3) outlines the work and tasks service animals perform and specifies that a *service animal* does not include other species of animals, whether wild or domestic, trained or untrained.

**Vice-Chairman Boyer moved that the Carter 19-line amendment to HB2401 dated 2/11/13 (Attachment 3) be adopted. The motion carried.**

**Vice-Chairman Boyer moved that HB2401 as amended do pass.**

Chairman Carter, sponsor, indicated that this bill was brought to her attention by the Arizona Restaurant Association. Animals are sometimes brought into restaurants or grocery stores that should not be there; for example, she heard that one gentleman took an alligator to the grocery store. The way the statute is written, the definition of a *service animal* is not clarified.

Sherry Gillespie, Government Relations Manager, Arizona Restaurant Association, testified in support of HB2401. She indicated that the definition of *service animal* in Arizona is not succinct and people are abusing a system designed to help individuals in need. Restaurants are appreciative of diners and want to ensure a healthy and safe environment for everyone. In response to questions, she related that the Arizona statute was in line with the Americans with Disabilities Act (ADA), but the ADA made modifications to its statute in 2011. Comfort pets and pets used for crime deterrent, such as someone with a snake around their neck to prevent anyone from attacking them, are no longer allowed. In addition, only dogs and miniature horses are considered service animals and tasks performed by a service animal are outlined in the amendment.

Chairman Carter disclosed that she rides and shows horses so many people asked her about the concept of a miniature horse as a service animal. She will send out an information link that educates citizens about the use of miniature horses as service animals. Miniature horses live longer than dogs and can be trained to perform tasks that service dogs cannot perform. They are fully potty trained and many are smaller than large service dogs. The intent of the bill is to prevent someone, for example, from bringing a ferret into a restaurant and saying it is needed for comfort.

Ms. Gillespie responded to questions relating to miniature horses on planes and identifying a disability without violating federal or discrimination laws.

Chairman Carter noted that almost all Starbucks facilities she goes to have a sticker by the door addressing the issue of comfort animals not providing a service need. Without clarifying language in statute, business owners are placed in uncomfortable or controversial situations.

In response to a question about leaving a pet in the car in the middle of July, which runs afoul of the animal abuse statutes, Chairman Carter stated that a comfort pet can exit a vehicle and the owner can maintain control of the animal outside the facility. This bill is about bringing animals into a facility where food is served or sold. Ms. Gillespie agreed, noting that in some counties, people are allowed to obtain a provision to have pets in an establishment, so people can take their animals there.

In response to a request by Chairman Carter, Ms. Gillespie indicated that this is not only a concern of the Arizona Restaurant Association. Ms. Gillespie sent emails to all Association members and several restaurants had problems. She mentioned it to the Grocers Association, which sent emails to its members and received feedback stating it is not a major issue. She also spoke to Maricopa County personnel, who indicated language is needed in statute to avoid conflict with Food and Drug Administration requirements.

Roxane Nielsen, Prescott Brewing Company, representing self, in support of HB2401, stated she is an independent operator of a small business, which has had issues with service animals versus pets for many years. People have brought in parrots, ferrets, squirrels and dogs in briefcases. If someone arrives with a service animal, dog or pet, as long as there is no barking, hostility, jumping, etc., management is trained to allow it because the main focus is to service the guests. It is difficult to monitor what happens in every instance, so firm guidelines are needed. All managers carry a laminated card identifying the two questions that can be asked, which is whether the pet is a service animal performing service for their disability, and if so, what task or work the animal performs. She related an incident that occurred with a woman with Post Traumatic Stress Disorder (PTSD), which was initially not revealed, causing some consternation, but eventually the woman was allowed to keep the animal in the restaurant.

In response to questions, Ms. Nielsen acknowledged that with this legislation, the woman would still be allowed to keep the dog in the restaurant. It prevents ferrets, parrots, cats, rabbits, alligators, rats, squirrels and monkeys from going into establishments, while providing people with disabilities that need service animals with protection and giving restaurant owners and people in the food service industry leeway as to what does not have to be allowed.

Chairman Carter stated that HB2401 codifies the definition of a *service animal* in statute in compliance with national standards.

Ms. Gillespie and Ms. Nielson responded to questions relating to airline guidelines for transporting pets, accommodations for individuals who may be allergic to dog or horse hair and expansion of pets that can be considered service animals, such as cats.

Louis Basile, Chief Executive Officer, Wildflower Bread Company, in favor of HB2401, said the need exists for clarity for managers and staff. Much abuse goes on, placing operators in unbelievably difficult situations. He related an incident in which a customer brought her deceased husband's service animal into the restaurant and was asked not to, which resulted in a sordid situation that other customers observed. Some customers allow service animals to eat off the china, which is costly to replace. He supports people who need service animals; however, the broadness of current language in statute relating to service animals and the inability to not clearly articulate what is and is not allowed, causes hardships for operators.

Representative T.J. Shope, representing self, stated that his family owns Shope's IGA in Coolidge and there has been an increase in individuals bringing animals into the business in the last few years. As the store manager, he has to tactfully request that these people consider not bringing animals into the business where food is served. He is not against service animals going into facilities if they are needed and properly documented. He related that he was recently in Yuma, San Luis and Somerton where he saw how produce is handled from the farm to supermarket shelves. Everything is done in a clean environment, so if a coyote goes into a field, that area is not allowed to be picked and sold due to potential contamination; however, any kind of animal can go into businesses, which creates a potential health problem. All it takes is one incident for an independent business to go out of business if the source of a problem is an animal.

Chairman Carter stated this issue has been the focus of many discussions, which she wanted to bring out in testimony so people understand the intent of the bill.

Names of persons who signed up in support of HB2401 but did not speak:  
Trish Hart, Lobbyist, Arizona Food Marketing Alliance  
Richard Bohan, Director of Government Relations, Maricopa County Board of Supervisors  
Kari Nienstedt, Arizona State Director, The Humane Society of the United States  
Monica Attridge, Arizona Association of Providers for People with Disabilities

Names of persons who signed up in opposition to HB2401 but did not speak:  
Leonard Clark, representing self

**Question was called on the motion that HB2401 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 4).**

**HB2043 – technical correction; health services; fees – DISCUSSED & HELD**  
**S/E: stretcher and wheelchair vans; restriction**

**Vice-Chairman Boyer moved that HB2043 do pass.**

Ingrid Garvey, Senior Majority Research Analyst, explained that the Carter three-page strike-everything amendment to HB2043 dated 2/6/13 (Attachment 5) includes the following provisions (Attachment 6):

- Allows a holder of a certificate of necessity (CON) to bring a civil action against a person who transports a patient in a stretcher van or wheelchair van in violation of statute, if the alleged violation took place in the CON's geographic location.
- States that at least 60 days prior to filing any action, the plaintiff must notify the Arizona Department of Health Services (ADHS) and the alleged violator of the alleged violation, during which time ADHS may begin to pursue a hearing.
- Provides that an action may not be brought if ADHS has commenced and is diligently pursuing a hearing or civil action.
- Allows ADHS, if not a party, to intervene as a matter of right in any action regarding a transportation violation.
- Specifies that the plaintiff has the burden of proof.
- Allows the court to award costs, including attorney and expert witness fees, to any party that substantially prevails.
- Provides for injunctive relief, other equitable relief or assessed civil penalties.
- Requires ADHS to deposit civil penalties in the state General Fund.

**Vice-Chairman Boyer moved that the Carter three-page strike-everything amendment to HB2043 dated 2/6/13 (Attachment 5) be adopted. The motion carried.**

Elaine Arena, Southwest Ambulance, in favor of the strike-everything amendment to HB2043, pointed out that it does not change anything about stretcher van laws in terms of use.

Andrew Beran, Owner, Quality Transport Services of Arizona (QTS), representing self, opposed the strike-everything amendment to HB2043. He said the non-emergency medical transportation

industry transports people confined to wheelchairs or stretchers to doctor appointments, rehabilitation, dialysis and other appointments. The industry has an excellent safety record and provides about 250,000 rides per year in the Phoenix area. The industry is regulated by the ADHS, and any issues are resolved in an effective way. He indicated that he questions the motivation for this legislation, which gives Southwest Ambulance and Rural Metro the ability to sue a person who transports a patient in a stretcher van or wheelchair van in violation of regulations. This industry has had an exceptional safety record for many years because it is closely regulated by ADHS and hospitals and passengers are happy with this service. He requested that the Committee table this legislation, and indicated that if there is a concern about patient or passenger safety or regulations, he would like to have an open discussion between the ambulance industry, the emergency medical technician (EMT) industry and ADHS to formulate rules or solutions to address those concerns.

Jeff Say, Vice President, Phoenix EI Transportation, Inc., representing self, opposed the strike-everything amendment to HB2043. He stated the company provides stretcher and wheelchair transportation for the Mayo Clinic and all over the Valley. This bill was drafted without the knowledge of their industry. He works with and was told by the ADHS that the company is doing a good job and does not cross the line into the ambulance arena. In fact, he, Mr. Beran and two other companies proposed placing stickers on their vans so people know medical services are not provided. The state has already allowed Southwest Ambulance to combine with Professional Medical Transport (PMT) so there is a monopoly; now approval is being sought to sue anyone believed to be infringing on their territory. Some companies that transport individuals may have violated regulations, but his company, QTS and two other companies ensure they do not bridge the gap into the ambulance arena. These trips are provided for \$12 or \$13, but if a certificate holder decides to sue someone, every transport will go back to the ambulance company.

Chairman Carter noted that QTS's website says non-emergency medical transport and asked if stretcher vans are not supposed to provide medical transport. Mr. Say responded that it has always been called the non-emergency medical transportation (NEMT) industry because people are taken to medical appointments, but personnel are not allowed to monitor, treat or provide anything other than transportation.

Colby Bower, Chief Legislative Liaison, Arizona Department of Health Services (ADHS), neutral on HB2043, related that ADHS does not register, certify or inspect stretcher vans or wheelchair vans, but if complaints are received from ambulance companies or consumers, the complaints are investigated from time to time; however the EMT Section at ADHS focuses on patient outcomes, which typically takes place in an ambulance transport. Complaints about a stretcher van carrying an oxygen tank, for example, ranks low on the priority list due to limited resources.

Mrs. Gonzales questioned why the vans are allowed to use the word medical. Mr. Bower replied that he does not believe there is a prohibition in statute about using the term medical, but he will find out and let her know.

Mr. Boyer noted that A.R.S. § 36-2223, subsection C, states that a wheelchair van shall not imply that it offers medical care or ambulance transportation.

Mr. Bower responded to questions about complying with the 60-day timeline in the bill, whether a lawsuit can be filed if an investigation by ADHS is closed, the number of incidents that occur each year and transporting oxygen tanks in stretcher and wheelchair vans.

Ms. Arena explained that the intent of the strike-everything amendment is to add more resources if ADHS does not address an issue by allowing the CON holder to sue. The bill discourages frivolous filings because of the provision allowing for awarding of fees. Stretcher and wheelchair vans provide needed transportation, which she is not attempting to change; the legislation is focused on patient care.

Mr. Meyer indicated that he would like assurance ADHS will investigate these complaints, and if it finds the transports are appropriate, this will not be necessary. He prefers not to see more litigation and not to have providers change their habits. Having worked in a hospital, stretcher vans were used many times because of the cost savings. Ms. Arena stated there is no intention to disrupt that service, which is important, if it is used appropriately.

John Wilson, Chief Operating Officer, Professional Medical Transport (PMT) Ambulance, in favor of the strike-everything amendment to HB2043, agreed that the intent is not to take transports from the wheelchair and stretcher industry, which is important to the healthcare community, but it is not a medical service. A.R.S. § 36-2223, subsection C, makes it clear that these providers shall not contain medical equipment, supplies, marking, symbols or warning devices or imply that medical care or ambulance transportation is provided. He said large quality providers are not regulated, but deal with some of the most vulnerable individuals in the community. Certain individuals in the business with a few vehicles develop a relationship with a few facilities, use the phrase non-emergency medical transportation and tell individuals they can be transported to the emergency room, and if the patient has an IV, they will take care of it. This legislation will ensure a level field among large wheelchair and stretcher providers, as well as inform new business personnel who may not know they are doing something illegal.

Mr. Wilson responded to questions relating to liability in relation to the person transporting individuals and complaints filed with ADHS in the past.

Names of persons who signed up in support of HB2043 but did not speak:

John Kaites, PMT Ambulance

Marcus Dell'Artino, Arizona Ambulance Association

John Thomas, Life Line Ambulance

Mike Bielecki, Consultant, Southwest Ambulance

Tom Dorn, Lobbyist, American Medical Response; River Medical

Charlie Smith, Chief, LifeStar EMS

Names of persons who signed up as neutral on HB2043 but did not speak:

Rachelle Casillas, representing self

**Chairman Carter stated that HB2043 will be held and heard next week.**

**HB2513 – dentistry – DO PASS AMENDED**

**Vice-Chairman Boyer moved that HB2513 do pass.**

Maritza Heras, Majority Intern, explained that HB2513 contains the following provisions (Attachment 7):

- States that a licensee, rather than a licensee who is over 65 years of age and fully retired, may contribute services to a recognized charitable institution with a reduced renewal fee while still maintaining triennial registration.
- Expands the definition of unethical conduct to include engaging in a policy or practice that interferes with the professional judgment of a licensee providing dental services for a business entity or compromising a licensee's ability to comply with dental regulations.
- Makes technical and conforming changes.

She advised that the Boyer nine-line amendment to HB2513 dated 2/12/13 (Attachment 8) replaces *provide evidence* with *attest by affidavit* for a licensee applying for retired or disabled status and provides the licensee must attest by affidavit that they are not currently engaged in the practice of dentistry.

**Vice-Chairman Boyer moved that the Boyer nine-line amendment to HB2513 dated 2/12/13 (Attachment 8) be adopted. The motion carried.**

Mr. Boyer, sponsor, explained there is an arbitrary age requirement that a person must be 65 years or older to provide dentistry experience to charitable organizations. This bill eliminates that language and states that the person only has to be retired. The amendment requires the person to provide proof to the Board of Dental Examiners (BODEX) that the person is retired. Also, a provision dealing with a business entity that could interfere with a dentist's professional judgment as a healthcare provider was included in the wrong section, which the bill corrects.

John MacDonald, Arizona Dental Association, spoke in favor of HB2513. He stated that this bill makes minor changes in terms of the overall Dental Practice Act in order to allow dentists at any age who retire to provide charitable services. If an incident of unethical conduct occurs, which is already prohibited in statute, BODEX will have the ability to enforce that and protect the relationship between the patient and the dentist. He added that he worked cooperatively with BODEX and representatives of business entities that own dental practices in Arizona. Further work is necessary for a Floor amendment.

Vice-Chairman Boyer assumed the Chair.

Kevin Earle, Executive Director, Arizona Dental Association, in favor of HB2513, stated that the Association has a history of non-licensee ownership of dental practices in Arizona. In 2007 and 2008, a stakeholder group was formed to establish a regulatory framework for business entities to register with BODEX. The Board was given the authority to suspend, revoke or place on probation a business entity that engaged in unethical conduct, such as irregularities in billing or engaging in an act or practice that is a violation of the health, safety and welfare of the public. Unfortunately, BODEX was not given the tools to sanction a business entity for engaging in such conduct.



Dr. Allison House, Treasurer, Arizona Dental Association, in favor of HB2513, stated the Association is asking that legislation be adopted to provide parity between dentist-owned practices and corporate-owned practices by requiring business entities that employ dentists to be held to the same standards as dentists. She related her experience in dental school when she worked at a practice not owned by a dentist, where an assistant who was not qualified, performed adult cleanings. She said she refused to extract teeth and place a denture for a client because an assistant made the dentures for the patient who never saw the dentist, and she was afraid the woman would be toothless. She was fired later that week. She indicated she can only speak about the corporate practice she worked at; however, younger dentists echo her experiences, relating that some practices do not follow correct procedures, allow unqualified people to perform dentistry and overbill for procedures. The language in this legislation provides that it is unethical for a business entity to compromise a dentist's ability to comply with the governing laws, which will give BODEX the ability to sanction.

Mrs. Brophy McGee announced the names of those who signed up as neutral on HB2513 but did not speak:

Elaine Hugunin, Executive Director, BODEX; Arizona State Dental Board  
Barbara Meaney, Arizona Tooth Doctor for Kids

Mrs. Brophy McGee announced the names of those who signed up in support of HB2513 but did not speak:

Greg Pafford, Dentist, representing self  
Stuart Goodman, Lobbyist, Arizona Board of Dental Examiners  
Randolph Snyder, Doctor of Dental Medicine, Arizona Dental Association  
W. Brian Powley, Doctor of Dental Surgery (DDS), representing self  
Tara Plese, Arizona Association of Community Health Centers; Arizona Alliance for  
Community Health Centers  
Howard Sorensen, DDS, Arizona Dental Association  
Gary Jones, representing self  
Dr. Jason Dittberner, representing self  
Thor Thorson, DDS, Arizona Dental Association  
Robert Taylor, Dentist, representing self  
Dr. Robert Oro, representing self  
Fred Olsen, representing self

**Mrs. Brophy McGee moved that HB2513 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 9).**

### **HB2521 – laetrile; prohibiton – DO PASS**

**Mrs. Brophy McGee moved that HB2521 do pass.**

Maritza Heras, Majority Intern, explained that HB2521 removes statutory references to Laetrile (Attachment 10).

Representative John Kavanagh, sponsor, stated that Laetrile was touted as a cure for cancer in the 1800s, which was deemed not to be true. It was resurrected in the 1950s by a doctor and his son who again touted it as a cure for cancer, although evidence was purely anecdotal and data

was missing. The drug was tested by government agencies, etc., with the consistent finding that it does not cure cancer; in fact, it is harmful because it creates cyanide in patients who use it. In the 1970s, it became politicized when Steve McQueen had terminal cancer and went to Mexico to be treated with Laetrile, claiming it was a wonder drug, but he died in four months. It not only does not cure cancer; people believe they are being cured and do not use mainstream medication that may help them. In the 1970s, the Legislature was convinced by advocates that Laetrile is okay to use, despite the fact that it was not approved by the Food and Drug Administration, and legislation was passed to allow usage and manufacture of the drug in Arizona. He cited text on a website called Quackwatch by Dr. Benjamin Wilson, titled "The Rise and Fall of Laetrile", which sums up the reasons to remove this provision from the statutes.

Colby Bower, Chief Legislative Liaison, Arizona Department of Health Services (ADHS), neutral on HB2521, stated this statute was discovered during the interim, and after conducting research, he believes the language should be removed. He added that ADHS does not currently inspect Laetrile manufacturing facilities.

**Question was called on the motion that HB2521 do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 11).**

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

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Linda Taylor, Committee Secretary  
February 20, 2013

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