



# 2009 LEGISLATIVE REPORT

## INTRODUCTION

### THE LEGISLATURE – SEPTEMBER SONG

We are writing this report in September, two months after the close of the Regular Session and a few days after the finish of a special session called by the Governor. Why? Because she vetoed the budget sent to her on July 1, the first day of the new budget year. And here we are, two months later (1/6 of the budget year) without a complete budget governing state agency spending.

During the first week of September, Governor Brewer vetoed some budget legislation, signed others, including H2013, which provides funding for the Health Department and AHCCCS, and line-item vetoed parts of bills pertaining to the Departments of Economic Security (DES) and Education. Among the vetoes was the \$250 million property tax repeal sought by the business community and Republican legislators, preferring to use the money to fund the cuts she has vetoed in the DES and Education budgets.

The legislative leadership, on the other hand, was unable to pass the temporary sales tax increase that the Governor insisted on to help provide revenue to get through the next three budget cycles. The Legislature also approved the sale and lease back of state buildings, in effect making policy makers of our government tenants in their own state.

The Democrats, who have been effectively left out of the budget, may now have to be included in order to finally close the divisive spending gap in this year's budget, but that will come with a price. The newspapers are rattling on and on about a crisis in leadership, but are under-reporting that there is also a crisis in followership as some Republicans seem to adhere to no party but their own. The result is not good for the state and if you think no one is happy, you are right.

But, just wait, this was the easy year because the federal stimulus funding and the few gimmicks and pieces of low-hanging fruit have helped to ease the pain a bit. Even so, this year saw the loss of the KidsCare Parents health insurance program, a 5% reduction in AHCCCS provider reimbursement and the loss of several small, but important, health care services. Only a huge effort by the entire health care advocacy community stemmed the bleeding and prevented much more serious losses. Unlikely but effective coalitions, including one composed of ArMA, the Arizona Association of Health Plans, Blue Cross/Blue Shield of Arizona, the Arizona Hospital and Healthcare Association and the Arizona Osteopathic Medical Association along with the Arizona State Chamber of Commerce, local chambers of commerce and several medical specialty societies, were formed to fight budget cuts and supporting the continuation of priority programs. Through coalitions such as this, a lot of important budget items were retained or received only minimal cuts.

This year is not over with respect to the budget; it is safe to plan on at least one more special session this fall to close the shortfall in this year's budget. It is also safe to say that both the Governor's temporary sales tax increase and the Republican legislative push to repeal the \$250 million property tax will remain in play. Likely the new variable will be a push for Democratic support to pass the budget. In short, there is more fun to be had by all.

The bottom line is that medicine came out fairly well in the budget - given what was at stake. However, gird your loins for the next cycle beginning in January. Unless there is another federal bailout, there is nothing easy to do to either enhance revenue or cut programs. No gimmicks remain and revenue continues to come in significantly below estimates. Arizona is a state in deep financial trouble and before it is over, we will all pay the piper. The September song is in reality bad rap music.

## MEDICAL LIABILITY SUCCESS

This session we were successful in passing S1018, Medical Malpractice; E.R. Treatment; Burden of Proof, which was signed into law. This bill raises the burden of proof for emergency medical care provided within EMTALA standards to "clear and convincing" evidence. The bill, introduced and strongly supported by Senator Carolyn Allen, makes Arizona one of only a handful of states to implement this higher standard for emergency care. The bill is the culmination of four years of effort which at one time passed, but was vetoed by Governor Janet Napolitano. This year, the bill was

supported by ArMA and a broad coalition of health care and business advocates, including the Arizona College of Emergency Physicians and the Arizona Osteopathic Medical Association. More than forty agencies spearheaded by ArMA and the Arizona State Chamber of Commerce worked hard to pass S1018.

While the stars were somewhat aligned this session, passage of S1018 was never assured due to the bill hearing process in the House and Senate. As the session opened, Senate President Bob Burns established a policy that no non-budget bills would be heard until the budgets for 2009 and 2010 were passed. The House, on the other hand, heard bills and piled them up to ship to the Senate. Only after passing a budget but not sending it to the Governor, did President Burns assign bills to committees on June 9 allowing chairmen to set hearing agendas. This situation meant every bill signed or vetoed had to go through at least one house during the last two and a half weeks of June. S1018, which was opposed by the Arizona Trial Lawyers' Association, had to go through both houses. As a result of this gauntlet, only 213 of the 1133 bills introduced were passed and one of those was the Burden of Proof bill. Of the bills that passed, the Governor vetoed 22, which means that after six months of deliberation only 191 bills became law – hardly a productive session by anyone's addition.

### **LEGISLATIVE TALLY SHEET**

The balance of this report will deal with specific bills ArMA either supported or opposed. These bills, along with the major issues discussed above, comprise some of the 140 plus bills that were followed this session. They're represented in the broad categories used by ArMA's Committee on Legislative and Governmental Affairs to establish ArMA's advocacy positions. These categories are: Regulatory Boards/Regulations, Insurance, Tort Reform/Liability, Public Health/Public Policy and Healthcare Institution Issues.

## **REGULATORY BOARDS/REGULATIONS**

This section deals with occupational licensing, scope of practice and the imposition of state authority that directly or indirectly affects the practice of medicine. Under this category, ArMA followed 25 bills this year. The most significant of these measures are summarized below.

### **H2160: CHIROPRACTIC PRACTICE**

Introduced by Representative Nancy Barto, this bill made changes in the statutory description of chiropractic medicine to add "physical medicine modalities" and "therapeutic procedures" to the list of treatments a chiropractor may provide. "Physiotherapy" is removed from the list. The bill was heavily negotiated by ArMA and others to insure that it did not inadvertently increase the chiropractic scope of practice. The bill died in the Senate when it was not assigned to a committee. ArMA worked to clarify issues until its demise and we expect that the issue will be reintroduced next session. ArMA's position on the bill was general non-support.

### **H2164: PHARMACISTS; ADMINISTRATION OF IMMUNIZATIONS**

Introduced by Representative Barto, this bill was the result of a sunrise application undertaken by the Pharmacy Association in an attempt to increase their scope of practice. The bill was negotiated by ArMA, the Arizona Academy of Family Physicians (AAFP) and the Arizona Osteopathic Medical Association (AOMA). As agreed, the bill authorizes licensed pharmacists to administer immunizations and vaccinations that are included on a list established and maintained by the Arizona Department of Health Services (ADHS). In addition, the Board of Pharmacy must appoint an advisory committee to assist it in adopting rules and protocols regarding pharmacists administering immunizations and vaccinations. The advisory committee, which includes physicians, has the responsibility of recommending to the ADHS the list of immunizations pharmacists are permitted to administer. The bill sunsets on January 1, 2012. When the bill reached the Senate, Senator Amanda Aguirre, with the support of Representative Barto, amended the bill to add adults to the state's Arizona State Immunization Information System (ASIIS) and included an "opt out" provision for adults. ArMA's took a position of general support on the bill, which passed and was signed by the Governor.

### **H2210: CHIROPRACTORS, HOMEOPATHS; REGULATION**

Introduced by Representative Barto, this bill provided that business entities which employ chiropractors are required to establish a written protocol governing the secure storage, transfer, access and disposal of the medical records of each patient. Violation would be a class six felony. It died in the Senate when it was not assigned to a committee. ArMA took a position of active study on the bill and at one point in time considered becoming involved in the bill, which we assume will be reintroduced next session.

### **H2283: CERTIFIED NURSING ASSISTANTS; PILOT PROGRAM**

This bill extended for two additional years a pilot program allowing certified nursing assistants to administer certain medications to October 1, 2011. The bill is session law, which essentially makes no change to current statutes beyond the expiration date. Introduced by Representative Doris Goodale and monitored by ArMA, the bill passed and was signed by the Governor.

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**H2376: IMAGING SERVICES; STANDARDS**

Introduced by Representative Rick Murphy on behalf of a cardiologist, this bill would require that a physician who provides medical services to a patient must provide those services in accordance with all relevant guidelines and standards. Noncompliance would be an act of unprofessional conduct. ArMA was involved to attempt to bring this issue to the House of Medicine before it was introduced at the Legislature. It was withdrawn by the sponsor after a series of meetings. ArMA's position on the bill was general non-support although we have agreed to meet with the concerned physician to discuss the matter during the legislative interim.

**H2476: PSYCHOLOGISTS; PRESCRIPTION AUTHORITY**

Introduced by Representative Ed Ableser, this bill would have required the Board of Psychologist Examiners to adopt rules pertaining to prescribing medications for behavioral health conditions. The rules must address education, training, continuing education and supervision of psychologists prescribing such medications. Further, the bill required that a psychologist may prescribe behavioral health medication only if certified and in compliance with the rules adopted by the board. Opposed by ArMA and the Arizona Psychiatric Association, the bill died in the House without a hearing.

**H2560: CERTIFICATION IN MEDICAL SPECIALTY; DISCLOSURE**

Sponsored by Representative Cecil Ash, this bill would add to the list of actions included in the definition of unprofessional conduct by a medical or osteopathic doctor the false representation by the doctor or the doctor's staff that the doctor is board certified in a specialty or certified to perform a specific procedure. ArMA's initial position on the bill was general support and we worked with the sponsor to limit the requirement to board certification as many specialties can be specified to perform a specific procedure. The bill passed the House Health and Human Services Committee, but died later in the session.

**S1105: NURSING BOARD; OMNIBUS**

Introduced by Senator Carolyn Allen, this bill made numerous changes to statutes pertaining to the State Board of Nursing, including the addition of a definition of "disciplinary action" and expansion of the definition of "clinical nurse specialist." The definition of "unprofessional conduct" is expanded to include cheating or assisting another to cheat on licensure or certification examinations. The state Board of Nursing was expanded from nine to eleven members, by adding one nurse practitioner or nurse specialist and increasing the number of registered nurses to six from five. It also requires that any board member missing three consecutive board meetings be automatically dismissed from the board. Finally, the duties of the board's executive director were expanded to include approving nursing assistant training programs. ArMA took a position of active study on the bill which passed and was signed by the Governor.

**S1264: HEALTH PROFESSIONALS; DISCLOSURE**

Introduced by Senator Barbara Leff on behalf of several ophthalmologists, this bill would have made it an act of unprofessional conduct for a health care provider to fail to identify the type of license the provider holds in any advertisement or business card that names the provider, including a full spelling of the health professional's title or license designation. It passed the Senate and was likely to pass the House; however, it was caught up in the swarm of bills assigned in June after the Senate ended the ban on hearing non-budget bills. The bill, generally supported by ArMA, is expected to be reintroduced next session and should pass without any significant opposition.

**INSURANCE**

In the Insurance category, ArMA followed 34 bills this year. Some of those bills are addressed below.

**H2198: SETTLEMENT OF CLAIMS; WORKERS' COMP**

Introduced by Representative Nancy McLain, this bill would significantly alter the state's workers' compensation system by allowing parties to a work comp claim to settle all or part of a claim, subject to review by an administrative law judge. It required that the settlement be in writing and signed by the parties or their representatives. It prescribed the form of the agreement and required that a full and final settlement not be reopened or rearranged. ArMA's initial position was active study as we were concerned that any outstanding payment due a treating physician or hospital be settled prior to the execution of a final settlement. The bill was subject to intense negotiations, but failed to go forward.

**H2238: AHCCCS; DES; FRAUD REDUCTION**

Introduced by Representative Carl Seel, a freshman in the House, this bill would have permitted AHCCCS and the Department of Economic Security to enter into contracts with a private entity to provide fraud reduction technology with the ability to identify cases of multiple users of social security numbers, review property records and use other screening mechanisms to determine eligibility for services. Further, the agencies were authorized to request pilot testing of the technologies at no cost to the state. If either agency determined significant cost savings would result, it was

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authorized to enter into a contract in accordance with standard procurement requirements. This bill was vigorously opposed by ArMA, the pharmaceutical industry, the Arizona Hospital and Healthcare Association and many others as AHCCCS has already in place significant procedures, contracts and personnel to deal with fraud and third party issues. It was felt that in view of budget reductions, this would result in undue hardship to providers as well as unnecessary cost and should not be pursued. The bill passed the House and died in the Senate.

**H2296: CANCER SCREENING EXAMINATIONS; REPORTING REQUIREMENTS**

Introduced by Representative David Schapira, this bill would have required hospitals, health care services organizations and disability insurance companies to submit to the Department of Insurance (DOI) a report on cancer screening examinations including information on the types of screenings used to detect colon and rectal, cervical, breast and prostate cancer, the age when coverage began and the frequency of covered exams by January 15 of each year. DOI would be required to aggregate the information obtained and submit the report to the Governor and the Legislature by January 31 of each year. ArMA took a position of active study on the bill which died in the House without a hearing.

**H2323: HEALTH INSURANCE; SMALL BUSINESS COVERAGE**

Introduced by Representative Tom Boone, this bill reduced the time period during which a small employer (those with from two to 50 employees) does not provide health benefits before it may contract with an insurer to provide coverage that is exempt from otherwise mandatory coverage laws from six months to 90 days. Additionally, an individual must be uncovered by health insurance for 90 days before being eligible for a policy that excludes otherwise mandatory coverage for items like maternity, psychiatric treatment, prescription drugs and medical foods as treatment for inherited metabolic diseases, and treatment related to disabilities. ArMA monitored the bill which passed and was signed by the Governor.

**H2324: HEALTH INSURANCE; INDIVIDUALS; COVERAGE EXEMPTIONS**

Introduced by Representative Boone and generally supported by ArMA, this bill allows hospital service corporations, health care services organizations and disability insurers to offer health insurance contracts or policies to uninsured individuals that are not subject to various statutory requirements for health insurance. The requirements that are exempt include medical supplies conveniently accessible to subscribers, certain coverage for alcoholism and psychiatric disorders, procedures for standing referrals, maternity coverage for adopted children and prohibitions against denying coverage of various contract benefits such as psychologist, physical therapy, chiropractic and certain prescription drug benefits. The bill passed and was filed into law without the Governor's signature.

**H2381: HEALTH INSURANCE; COVERAGE-ONLY DETERMINATIONS**

Introduced by Representative McLain, the bill would have modified the definition of utilization review in statutes pertaining to health insurance to exclude coverage determinations that do not evaluate medical necessity or the appropriateness of services. Further the definition of adverse decision would expand to include coverage determinations that a requested service or claim is not a covered service under the plan if that determination results in a documented denial or nonpayment. The bill passed the House, but failed in the Senate due to the limited period for hearings.

**S1262: WORKERS' COMPENSATION**

ArMA opposed the original bill as introduced by Senator Leff; however, late in the session it became the vehicle to roll several agreed-to provisions from other bills into an omnibus workers' compensation bill which ArMA did support. For example, for purposes of determining compensation in cases where an employee who is entitled to workers' compensation as a result of an injury sustained on the job and whose employment has been terminated for reasons unrelated to the industrial accident, the Industrial Commission is authorized to consider the wages the person could have earned from continued employment. The bill codifies current practice by requiring that, upon request, a physician prescribing for a person receiving workers' comp benefits off-label use of a controlled substance must submit a treatment plan for monitoring and prevention of abuse, and that insurance carriers are not responsible for payment for off-label use of medication until such information and treatment plan are submitted. Additionally, the amount of damages that may be collected by an insurer from an employer who willfully misrepresents employee and payroll information was lowered from ten times the difference in premiums to three times the difference. Finally, the annual date on which workers' comp rates become effective is changed to Jan 1 from Oct 1. The bill passed with ArMA's support and was signed by the Governor.

**S1266: WORKERS' COMP; DRUGS & ALCOHOL**

Introduced by Senator Leff, the bill deletes provisions in workers' compensation statutes that allow denial of a claim for work-related injury or death if the accident was due to the impairment of the employee due to alcohol or drugs. It became

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necessary after the denial language was deemed unconstitutional by the Arizona Supreme Court decision in *Grammatico and Komalestewa v. The Industrial Commission*. Generally supported by ArMA, the bill passed and was signed by the Governor.

#### **S1417: AHCCCS; PAYMENT SYSTEM; REFORM**

Introduced by Senator Leff on behalf of the Arizona Hospital and Healthcare Association and supported by ArMA, this bill makes various changes to AHCCCS statutes to develop a process to deal with prompt pay issues being experienced by hospitals and other providers. It would have created a Hospital Reimbursement Advisory Council to evaluate the inpatient and outpatient hospital reimbursement system of AHCCCS and issues affecting the delivery, availability and cost of hospital services in Arizona. Due to the overwhelming budget issues confronting the AHCCCS health plans and providers which took precedence, the bill did not move forward.

### **TORT REFORM/LIABILITY**

In the category of Tort Reform/Liability, ArMA followed 6 measures this year, up from 3 last year.

#### **S1018: MEDICAL MALPRACTICE; E.R TREATMENT; BURDEN OF PROOF**

Introduced by Senator Carolyn Allen and supported by ArMA and a coalition of many others, the bill requires that the standard of proof necessary to establish medical malpractice for hospital emergency departments (both for health care professionals and for the institution) is set as “clear and convincing” rather than “preponderance of evidence.” For malpractice in labor and delivery cases, the standard of clear and convincing evidence was expanded to include cases when the patient’s medical information is not “immediately” available. Formerly, a malpractice case could be brought with a lower standard of proof if the patient’s medical records were not “reasonably” available. Passage of this bill and signature by the Governor marked the end of a four year fight to obtain this legislation to create a higher burden of proof for EMTALA-related medical care.

### **PUBLIC HEALTH/PUBLIC POLICY**

This year in the Public Health/Public Policy category, ArMA followed 49 bills, significantly less than last year. Several of the most important are discussed below.

#### **H2158: ADULT IMMUNIZATION INFORMATION SYSTEM**

Introduced by Representative Barto, this bill required the Department of Health Services to establish an adult immunization information system to collect and analyze immunization data related to adults and to release titers and other measures of protection against vaccine-preventable diseases. This was the third time the health community led by The Arizona Partnership for Immunization has attempted to pass this legislation to create a voluntary adult immunization registry. Generally supported by ArMA, the bill passed the House and was referred to the Senate Rules Committee. It became law after it was rolled into H2164, Pharmacists; Administration of Immunizations, as an amendment sponsored by Senator Aguirre and supported by Representative Barto which passed and was signed by the Governor.

#### **H2188: HEALTH SECURITY ACT**

Introduced by Representative Phil Lopes for the fourth or fifth time, this bill would establish a Health Care Commission to implement and update a Health Security Plan and adopt other plans to provide continuity and development of the state’s health care system. The Health Security Plan would be designed to provide comprehensive, necessary and appropriate health care benefits to individuals physically residing in Arizona through a combination of public and private financing. Further it established the requirements and procedures under the Plan for primary care practitioners, access to specialist services, claims review, payments to practitioners and facilities, and quality of care. The Commission would develop the Plan’s annual budget and implement it following Legislative review and approval. Finally, the Plan must receive an annual independent actuarial review. It was referred to the House Government and Health and Human Services Committees and died without a hearing. ArMA took a position of active study on the legislation.

#### **H2239: TAX CREDIT; PHYSICIANS**

Introduced by Representative Andy Tobin, this bill would have established an individual income tax credit of \$5,000 for the first year of practice and increasing \$1,000 per year thereafter, with a maximum credit of \$10,000 for 6 or more years for licensed physicians who practice in medically underserved areas in Arizona beginning in tax year 2010. Any of the credit not used to offset taxes would be paid in the same manner as a tax refund. The bill enjoyed the obvious support of ArMA, but due to the budget crisis, had little opportunity to move in the House.

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**H2295: PUPILS WITH CHRONIC HEALTH PROBLEMS**

Introduced by Representative Schapira, this bill would require that school governing board policy related to pupils with chronic health problems cannot be construed as interfering with or overriding the rights of a parent/guardian of a pupil, or as authorizing school personnel without prior consent of a pupil's parent/guardian, to either authorize absences due to health problems or to administer or prescribe medication. ArMA took a position of active study on the bill which failed after passing the House Health and Human Services Committee.

**H2399: AUTOMATED EXTERNAL DEFIBRILLATORS**

Introduced by Representative Barto, this bill provides that an entity that acquires an automated external defibrillator no longer needs to have an agreement with a physician to oversee training, testing, use protocols and deployment strategies. The physician's responsibilities are limited to overseeing "the aspects of public access" to the device. Actions related to training and testing formerly performed by the physician are now the responsibility of the person or entity that acquires the device. ArMA took a position of general support on the bill, which passed and was signed by the Governor.

**H2400: PARTIAL-BIRTH ABORTIONS; DEFINITION**

Introduced by Representative Barto, the bill provides that a physician accused of performing a partial-birth abortion may request a hearing before the appropriate licensing board on whether the conduct was necessary to save the life of the mother according to statutory requirements. In Arizona state statutes, partial-birth abortion is illegal except if necessary to preserve the life of the mother. Further, the bill clarifies that the only life-threatening conditions that would exempt a physician from prosecution are physical in nature, excluding psychological disorders. Finally, the bill provides that the board's findings on that issue are admissible at the physician's trial. The bill was monitored by ArMA, passed and was signed by the Governor.

**H2555: SCHOOLS; EYE EXAMINATIONS**

Introduced by Representative Cloves Campbell, this bill would have required that beginning in 2010, parents of pupils enrolling in first grade must submit proof that the pupil has had a comprehensive eye exam within the previous nine months. Parents who sign a document stating that a comprehensive eye exam violates their personal beliefs would be exempt. ArMA opposed the bill and it died without a hearing. The issue may return next session and we will be working to craft an acceptable compromise.

**H2564: ABORTION**

Introduced by Representative Barto, the bill places restrictions on abortion procedures, including imposing a mandatory 24-hour waiting period and distribution of a required set of information that the woman must receive. It requires notarized consent from the parent/guardian of an unemancipated minor seeking an abortion. A physician who fails to comply with statutes commits an act of unprofessional conduct. A civil action may be brought for failure to obtain informed consent and a health care professional or employee of a pharmacy, hospital or physician may file a written document stating an objection to abortion or emergency contraception and be excused from facilitating or participating in the procedure. Monitored by ArMA, the bill passed and was signed by the Governor.

**H2616: LIVING WILLS; HEALTH CARE DIRECTIVES**

Introduced by Representative Murphy, this bill was initially opposed by ArMA and its committees on Bioethics and Legislative and Governmental Affairs because it significantly overcorrected the existing statute and would have created a situation in which a patient's decisions on end of life treatment could be abused. As a result of opposition by ArMA, the Arizona Hospital and Healthcare Association, the Arizona Osteopathic Medical Association, the courts, hospice and others, Representative Murphy convened a series of meetings of stakeholders in an attempt to improve the bill to a point where it could be generally accepted and actually make a solid amendment to the existing advance directives statutes. As a result, the final bill was supported by ArMA. Some of the provisions are: the list of information required in a petition presented to a court requesting appointment of a guardian for an allegedly incapacitated person is expanded to include a statement whether the guardian has the authority to withhold life-sustaining treatment, including administration of artificial food and fluids, and health care providers are indemnified against liability if a guardian's petition did not contain the statement; language prohibiting a surrogate from making decisions to withdraw food or fluid is changed to state that a surrogate shall not consent to withdrawal of food or fluid; if a patient does not have a living will or other directive to the contrary, there is a rebuttable presumption that the patient has directed health care providers to sustain life; conditions that may be used to rebut this presumption are prescribed. Finally, provisions are placed in statute to allow for an expedited judicial review prior to implementing any decision or court order to withhold life-sustaining treatment. The bill passed and was signed by the Governor.

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**HCR2014: HEALTH CARE CHOICE**

Introduced by Representative Barto, this bill refers to the 2010 general election ballot a proposition similar to the one narrowly defeated last November to amend the state Constitution by adding language stating that no rule or law shall require Arizona citizens to participate in any health care system or to be penalized for not doing so. It carves out exceptions for AHCCCS and the workers' comp system in an attempt to minimize opposition to its passage. ArMA's position as determined by the Executive Committee was to take a neutral position on the issue. The bill passed and the proposition will appear on the ballot in November of 2010.

**S1003: DUI; PRESCRIPTION DRUGS**

Introduced by Senator Jim Waring, this bill was originally opposed by ArMA because it created a situation where someone lawfully using medication under the supervision of a physician could be found guilty of DUI and subject to significant penalties. The final bill contains language exempting a person using physician prescribed medication from DUI statutes that relate to the presence of drugs in the person's body if the medication is being used as prescribed. The bill passed and was signed by the Governor.

**S1097: EMERGENCY MEDICAL SERVICES; RECORDS; CONFIDENTIALITY**

Introduced by Senator Carolyn Allen, this bill provides that when a complaint is filed against an ambulance company or EMT, the Department of Health Services must notify the company or person at least 30 days prior to an informal interview on the complaint that the company or person has the right to request the name of the person making the complaint and any documents associated with the complaint. The Department must comply except for information protected by privacy laws. Generally supported by ArMA, the bill passed and was signed by the Governor.

**S1098: DIRECT CARE WORKERS; HEALTH CARE DIRECTIVES**

Introduced by Senator Carolyn Allen, this bill would have specifically excluded a direct care worker who provides support services for disabled persons from a statute that describes the responsibility of health care providers with respect to a patient's health care directives. ArMA took a position of active study on this bill which failed in the Senate.

**S1100: BIOMEDICAL RESEARCH COMMISSION; CONTINUATION**

Introduced by Senator Carolyn Allen, this bill extends the statutory life of the Arizona Biomedical Research Commission, which investigates funding mechanisms for research into the causes, treatment and cures of diseases, for ten years to July 1, 2019. The bill was supported by ArMA, passed and was signed by the Governor.

**S1103: PARTNERSHIP FOR NURSING EDUCATION**

Introduced by Senator Carolyn Allen, this bill extends the sunset date for the Arizona Partnership for Nursing Education Demonstration Project for five years to June 30, 2015. The Partnership has been very successful in its efforts to bring new nurses into the workforce. ArMA took a position of general support on the bill, which passed and was signed by the Governor.

**S1152: MENTAL HEALTH SERVICES; COURT-ORDERED TREATMENT**

Introduced by Senator Jonathan Paton, this bill removes the prohibition against a person giving sworn evidence about his/her spouse in court-ordered mental health actions. The bill revises sections of the mental health statutes to require that the person who serves the patient with a notice of hearing on court-ordered treatment must file proof of service with the court and the patient's attorney is permitted to enter stipulations on behalf of the patient. Prior to this, only the proposed patient could request a continuance of up to 30 days in the hearing of a petition for court-ordered mental health treatment. New language permits the petitioner to request a continuance for a maximum of three business days and the patient may request a hearing to determine whether she/he should be involuntarily hospitalized during the continuation period. Generally supported by ArMA, the bill passed and was signed by the Governor.

**S1311: END-OF-LIFE OPTIONS; RIGHT TO KNOW**

Introduced by Senator Linda Lopez, this bill was modeled after California legislation that requires a health care provider to provide a patient with information and counseling on end-of-life options if the health care provider determines the patient has a terminal illness and if the patient requests it. The bill prescribes a list of information that will satisfy this provision is prescribed. ArMA's committees on Bioethics and Legislative and Governmental Affairs reviewed the bill prior to its introduction and uniformly opposed its passage for a variety of reasons including the potential medical liability if, for some reason, the counseling did not occur. ArMA opposed the bill which died in the Senate without a hearing.

**S1326: SAFE HAVEN PROVIDERS; PLACEMENT PROTOCOLS**

Introduced by Senator Linda Gray, this bill prescribes procedures for the placement of newborns left with safe haven providers. If a newborn is left with a private child welfare agency or with a private adoption agency and the agency

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wishes to take custody of the child, it must inform Child Protective Services and take the infant to a hospital to be examined before taking custody. The safe haven provider must complete the AHCCCS application process on behalf of the infant. If AHCCCS denies eligibility or does not reimburse the hospital for care and treatment, the entity or individual that ultimately takes custody of the infant must reimburse the hospital. The bill passed and was signed by the Governor.

#### **S1375: SCHOOLS; PARENTS' REQUEST FOR INFORMATION**

Introduced by Senator Chuck Gray, this bill would have established the procedures to be used when a parent has a question related to course content or learning materials in a school. If the request is denied by the principal or school superintendent, the parent may submit a request to the governing board which must consider the request at the next meeting after the item may be properly noticed on its agenda. ArMA took a position of general non-support on the bill which passed the Senate, but died in the House when it was retained on a Committee of the Whole calendar.

### **HEALTHCARE INSTITUTION ISSUES**

This year in the Health Care Institution Issues category ArMA followed 4 bills.

#### **H2186: HOSPITALS; PATIENT PROTECTION; NURSES' RIGHTS**

Introduced by Representative Lopes and opposed by ArMA and the Arizona Hospital and Healthcare Association, the bill would have established the "Arizona Patient Protection Act" to confirm and create statutory patient advocacy rights for direct care registered nurses. This bill, which has come from the Republic of California, would have created numerous requirements, mandates and prohibitions for hospital nursing services, including minimum direct care registered nurse-to-patient staffing ratios, a requirement to implement patient classification systems and related minimum staffing requirements and a requirement that a direct care registered nurse perform patient assessments. The bill provided severe penalties for hospitals in violation of these requirements including license suspension or revocation, to civil penalties of up to \$25,000 per violation and an additional \$10,000 per nursing unit shift until the violation is corrected. It was referred to the House Government and Health and Human Services Committees and died without a hearing.

### **CONCLUSION**

Considering the dire financial problems of state government and the unwillingness of the Senate to move bills until late in the session, we were lucky to come out of this year without missing body parts. Instead, with the help of others in the health community, we were able to minimize spending cuts while passing the medical liability, Burden of Proof bill. We were also a part of the only successful effort to restore funding cuts as we managed to restore GME and hospital funding in the 2009 budget.

Additionally, we were able to stop some onerous legislation, including scope of practice increases and social issues contrary to ArMA policy. So, all in all, we fared pretty well.

Next year, however, holds a promise of being far more difficult. We will probably be starting with what could be a \$3 billion deficit with no easy ways to close the shortfall. We will be fighting to save programs and reduce cuts. Anticipate that everything will be back on the table, prepped for surgery without anesthetic.

In addition to the budget, we are likely to face new scope of practice issues and perhaps more fighting with respect to workers' compensation. We are also beginning to work with others to formulate a plan for further medical liability legislation as the window for passing relief may close with the next elections in November 2010.

In conclusion, it has been an exhausting year, which is not actually over yet as we anticipate at least one more special session on the budget. This year saw a new high in physician involvement in legislative issues and this is a welcome assist to our efforts. We will continue to do our best to inform you of issues which concern your practice and patients and to work on your behalf to further the goals of medicine.

