

2015 HEALTH LEGISLATIVE REPORT

Following is a Legislative Report for the Fifty-Second Legislature, First Regular Session (2015), including those bill summaries with the most relevance to the practice of psychiatry that have been presented at the beginning of this session. The bill summaries and histories are copyrighted by Arizona Capitol Reports, L.L.C. If you would like any additional information, please contact the APS Lobbyist, Joe Abate, at 602-393-1700. If you are interested in being a part of the Legislative Committee of APS, chaired by Dr. Carol Olson, please contact teri@azmed.org.

H2075: AHCCCS; ANNUAL WAIVER SUBMITTALS

By March 30 of each year, the AHCCCS Director is required to apply to the Centers for Medicare and Medicaid Services for waivers or amendments to the current section 1115 waiver to allow Arizona to institute a work requirement for all "able-bodied" (defined) adults receiving AHCCCS services, place a lifetime limit of five years of benefits on able-bodied adults except in specified conditions, and develop and impose meaningful copayments to deter the nonemergency use of emergency departments and the use of ambulance services for nonemergency transportation or when it is not medically necessary. By April 1 of each year, the Director is required to submit a letter confirming the submission of the waiver requests to the Governor and the Legislature.

2/16 House child-fam amended; report awaited. S1092 passed the Senate 2-24-15. Last year, Governor Brewer vetoed similar legislation.

H2088: MENTAL HEALTH; VETERAN; HOMELESS COURTS

The presiding judge of the superior court in each county is authorized to establish a homeless court, veterans court and mental health court. The judge must establish the eligibility criteria for referral to these courts. In counties with a population of less than 250,000 persons the presiding judges of the superior court are authorized to enter into an intergovernmental agreement with each other to establish a regional homeless court, veterans court and mental health court.

1/20 referred to House jud.

H2102: CHILDREN; CHRONIC ILLNESS; PHYSICAL DISABILITY

The AHCCCS Administration is required to establish a children's rehabilitative services program for "children who have a chronic illness or physical disability" (defined) and to establish policies for that program, including medical eligibility and all rules for operation. Requirements for the program are specified. The AHCCCS Director is required to issue a public request for proposals at least once every five years to contract for the care and treatment of children in the program. The AHCCCS Administration is required to coordinate benefits so that any costs payable by the Administration are costs avoided or recovered from any available provider of first-party health insurance benefits. Current statute permitting the AHCCCS Administration to develop and operate children's rehabilitative services, subject to the availability of monies, is modified to replace the AHCCCS Administration with the Department of Health Services.

2/3 from House hel do pass.

H2105: INMATE MEDICAL SERVICES; RATE STRUCTURE

Statute establishing reimbursement rates for health care services provided to an inmate in a county jail that the county jail cannot provided applies to all counties, instead of only to a

county with a population of more than one million persons (Maricopa).

2/12 passed House 57-0; ready for Senate.

H2139: CONTROLLED SUBSTANCES; SCHEDULES

The lists of schedule I, schedule II, schedule III, schedule IV and schedule V controlled substances are modified to include and exclude various substances.

2/12 passed House 58-0; ready for Senate.

H2141: PRESCRIPTION MONITORING PROGRAM; DISCLOSURE

The list of persons that the State Board of Pharmacy is authorized to release data collected by the controlled substances prescription monitoring program to is expanded to include a county medical examiner or alternate medical examiner who is directing an investigation into the circumstances surrounding a death, or a “delegate” (defined) who is authorized by the county medical examiner or alternate medical examiner.

1/20 from House hel do pass.

H2238: HEALTH PROFESSIONALS; LICENSURE REQUIREMENTS; PROHIBITION

A health professional is not required to participate in any public or private third-party reimbursement program as a condition of licensure.

2/16 from House rules okay. To House consent calendar.

H2294: COURTS; APPROVED SCREENING, TREATMENT FACILITIES

The list of alcohol or other drug screening facilities or domestic violence treatment program facilities that a judge must order a person convicted of specified offenses to complete is expanded to include facilities approved by the U.S. Department of Veterans Affairs.

2/16 from House rules okay. To House consent calendar.

H2307: COURT-ORDERED TREATMENT; HEARINGS

Hearings related to court-ordered treatment may allow the patient to appear by “other reasonably feasible means.”

2/16 from House rules okay. To House consent calendar.

H2310: MENTAL HEALTH COURTS; ESTABLISHMENT

The presiding judge of the superior court in each county is authorized to establish a mental health court. The judge must establish the eligibility criteria for referral to the mental health court. In counties with a population of less than 250,000 persons the presiding judges of the superior court may enter into an intergovernmental agreement with each other to establish a regional mental health court.

2/12 House COW approved with amend #4057.

H2322: MISBRANDED DRUGS; COUNTERFEIT MARKS; OFFENSE

It is a class 4 (mid-level) felony to knowingly manufacture, sell or distribute a misbranded drug. It is a class 1 (highest) and a class 2 (second-highest) misdemeanor to knowingly possess or use a misbranded drug. [Capitol Reports note: the original bill adds this violation to both criminal classifications.] In addition to any other penalty, the court is authorized to order a person convicted of knowing possession or use of a misbranded drug to pay a fine of up to \$10,000. For the purpose of the criminal code, manufacturing, selling or distributing misbranded drugs is added to the definition of “racketeering.” The definition of “misbranded drug” is expanded to

include any foreign dangerous drug if it is not approved by the U.S. Food and Drug Administration or obtained outside of the licensed supply chain regulated by the FDA or the state, with some exceptions.

1/27 referred to House jud.

H2332: ACCOUNTABLE HEALTH PLANS; DISCLOSURE; REPEAL

Repeals statute requiring accountable health plans that offer a health benefits plan to provide disclosure forms with specified information.

2/16 from House rules okay.

H2363: COUNTY CONTRIBUTIONS; HOSPITALIZATION; MEDICAL; REPEAL

Repeals the county contributions for AHCCCS hospitalization and medical care for FY2014-15 contained in the FY2014-15 budget. The state has no obligation to refund monies paid.

2/3 from House county-muni do pass.

H2372: APPROPRIATION; MENTAL HEALTH FIRST AID

Appropriates \$500,000 from the general fund in FY2015-16 to the Department of Health Services for providing additional and more frequent mental health first aid training for military personnel and veterans and their families.

2/5 referred to House mil-pub, appro.

H2495: MEDICALLY UNDERSERVED AREAS; LOAN REPAYMENT

The Primary Care Provider Loan Repayment Program may be used to pay off portions of education loans taken out by pharmacists, advance practice providers and behavioral health providers who meet other program qualifications, including service for at least two years in rural areas or high-need health professional-shortage areas. Increases the maximum amount of loans for each provider that may be repaid with Program monies. Repeals the Behavioral Health Practitioners Loan Repayment Program.

2/16 from House rules okay. S1194 covers as well; went to Governor already.

H2498: REPORTING; PRISONERS; SOLITARY CONFINEMENT

On the first day of each calendar quarter, the Department of Corrections is required to report to the Governor and the Legislature specified information on prisoners placed in solitary confinement. Beginning on the effective date of this legislation, the Dept is required to assess all of the Dept's policies and practices on the use of solitary confinement for prisoners with serious mental illness or other significant mental impairments. Self-repeals January 1, 2019.

2/12 House mil-pub held. The Arizona Psychiatric Society supports this legislation.

H2499: DHS; PREVENTION EDUCATION GRANTS; APPROPS

The Department of Health Services is required to distribute grants for middle and high school prevention education programs on a competitive grant basis to applicants who implement a program that promotes positive life choices and incorporates an educational prevention component focusing on substance abuse, mental health, violence and other risky behaviors. Appropriates \$300,000 from the general fund in FY2015-16 and each FY after to the Dept for the grants.

1/28 from House hel with amend #4019.

H2521: AZ MEDICAL BOARD; FINGERPRINTING; DISCLOSURE

The profile of Arizona Medical Board licensees that is available to the public on an internet website is prohibited from containing any information received from the Federal Bureau of Investigation relating to a federal criminal records check. The requirement for Board licensees renewing a license for the first time on or after September 2, 2014 to submit a full set of fingerprints to the Board for the purpose of obtaining a state and federal criminal records check is eliminated, retroactive to September 2, 2014. Applies to all renewal applications that are currently under consideration by the Board. Emergency clause.

2/12 see also S1149.

H2645: LAB TESTING WITHOUT PHYSICIAN ORDER

A person is permitted to obtain any laboratory test without a physician's request or written authorization. For tests conducted not at the request or authorization of a physician, the test results must be reported to the person with a statement that it is the person's responsibility to arrange with a physician for consultation and interpretation of the test results. Does not require that a laboratory test be covered by a health insurance plan or product or by any AHCCCS program.

2/11 referred to House hel. At 3/19, awaiting Senate COW.

S1012: OSTEOPATHIC BOARD; LICENSURE; REGULATION

Various changes related to the Board of Osteopathic Examiners, including modifying the requirements for a person to qualify for a training permit to participate in a teaching hospital's accredited program, authorizing the Board to require applicants for various licenses to submit to a personal interview or health evaluation, authorizing the Board to issue pro bono registrations to allow a doctor of osteopathy to practice in Arizona for a total of 60 days each calendar year and establishing requirements for pro bono registration. AS PASSED SENATE.

2/9 passed Senate 25-4; ready for House. At 3/19, passed House COW.

S1032: AHCCCS; CONTRACTORS; PRESCRIPTION MONITORING

AHCCCS contractors are required to intervene if an AHCCCS member has 10 or more prescriptions for controlled substances within a 3-month period and to monitor prescriptions that are being filled by members and intervene with both the prescriber and the member when excessive amounts of controlled substances are being used. AHCCCS contractors are required to direct cases involving excessive controlled substance use to the system medical director for review.

1/29 passed Senate 28-0; ready for House.

S1034: AHCCCS; EMERGENCY SERVICES; CASE MANAGEMENT

AHCCCS contractors are required to intervene if an AHCCCS member inappropriately seeks care at a hospital emergency department four times or more in a six-month period to educate the member regarding the proper use of emergency services.

2/16 passed Senate 29-0; ready for House.

S1039: PHARMACY BOARD; REGULATION; TRANSACTIONS

Various changes to statutes relating to the State Board of Pharmacy. Resident pharmacies are authorized to compound drugs, except drugs that are commercially available, for distribution to a resident medical practitioner for the purpose of administration to the practitioner's patient. The amount of drug a resident pharmacy distributes under this authorization cannot exceed

five percent of the total number of drug dosage units dispensed and distributed by the pharmacy annually. Pursuant to a valid patient-specific prescription order, resident pharmacies are authorized to dispense and ship compounded drugs into another state or jurisdiction, and nonresident pharmacies with a current permit are authorized to dispense and ship compounded drugs into Arizona. Resident and nonresident pharmacies are prohibited from distributing compounded drugs into or out of Arizona. Various regulations for full-service wholesale permittees are modified, including bonding requirements, authorized representative qualifications, record-keeping requirements for product tracing records and inventory and transaction records, and restrictions on transactions. AS PASSED SENATE.

2/9 passed Senate 27-2; ready for House.

S1040: CHIROPRACTIC; LIMITED PHARMACOLOGY CERTIFICATION; REQS

Board of Chiropractic Examiners applicants who wish to be certified in pharmacology to prescribe prescription-strength dosages of ibuprofen, naproxen, methocarbamol and cyclobenzaprine are required to submit to the Board documentation of successful completion of an unspecified number of hours (blank in original) of study in pharmacology at an accredited chiropractic college, documentation of successful completion of a rotation that includes an unspecified number of hours (blank in original) under the supervision of a licensed medical or osteopathic physician, a completed Board-prescribed application, and documentation of having passed a Board-approved pharmacology examination.

2/4 Senate hel-hu ser held. ArMA, AOMA, and other physician groups actively opposed this legislation and its failure to follow the Sunrise process. Bill is currently dead; could attempt to re-introduce as a striker amendment. At 3/19, no change in status.

S1092: AHCCCS; ANNUAL WAIVER SUBMITTALS

By March 30 of each year, the AHCCCS Director is required to apply to the Centers for Medicare and Medicaid Services for waivers or amendments to the current section 1115 waiver to allow Arizona to institute a work requirement for all "able-bodied" (defined) adults receiving AHCCCS services, place a lifetime limit of five years of benefits on able-bodied adults except in specified conditions, and develop and impose meaningful copayments to deter the nonemergency use of emergency departments and the use of ambulance services for nonemergency transportation or when it is not medically necessary. By April 1 of each year, the Director is required to submit a letter confirming the submission of the waiver requests to the Governor and the Legislature.

2/12 from Senate hel-hu ser with amend #4159. Same as HB2075. Signed by Governor.

S1145: RESTORATION TO COMPETENCY; STATE COSTS

If the state pays the costs of a defendant's inpatient, in custody competency restoration treatment, the municipality or county is required to reimburse the Department of Health Services for 100 percent of these costs for FY2015-16. Reimbursements must be deposited in the Arizona State Hospital Fund. County contributions made for reimbursements are excluded from the county expenditure limitations.

2/16 to Senate consent calendar.

S1149: AZ MEDICAL BOARD; FINGERPRINTING; DISCLOSURE

The profile of Arizona Medical Board licensees that is available to the public on an internet website is prohibited from containing any information received from the Federal Bureau of Investigation relating to a federal criminal records check. The requirement for Board licensees

renewing a license for the first time on or after September 2, 2014 to submit a full set of fingerprints to the Board for the purpose of obtaining a state and federal criminal records check is eliminated, retroactive to September 2, 2014. Applies to all renewal applications that are currently under consideration by the Board. Makes a supplemental appropriation of \$200,000 from the Arizona Medical Board Fund in FY2014-15 to the Board to refund fees collected by the Board to obtain criminal records checks for renewal applications. Emergency clause. AS PASSED SENATE.

2/12 substituted in House for identical H2521 and passed 58-0; ready for governor. Signed by Governor.

S1166: HEALTH CARE INSURANCE; UTILIZATION REVIEW

A health care insurer who utilizes the services of an outside utilization review agent is responsible for the administration of all patient claims processed by the utilization review agent on behalf of the health care insurer.

2/16 passed Senate 29-0; ready for House.

S1189: HEALTH INSURANCE; INTERSTATE PURCHASE

Health and disability insurers that issue policies and hold a certificate of authority in another state are authorized to issue health or sickness insurance in Arizona, and a person is permitted to purchase a policy, if the insurer registers with and provides specified information to the Department of Insurance. Any policy issued under this authorization must meet the benefit requirements of other policies issued in the state where the insurer holds a certificate of authority. Circumstances under which the Dept may revoke an insurer's registration are specified.

2/4 Senate fin ins held.

S1194: MEDICALLY UNDERSERVED AREAS; LOAN REPAYMENT

Expands the medical providers eligible to participate in the Primary Care Provider Loan Repayment Program (Primary Care Provider Program) and the Rural Private Primary Care Provider Loan Repayment Program (Rural Private Practice Program).

Went to Governor already; covers HB2495. Signed by Governor.

S1212: BEHAVIORAL HEALTH EXAMINERS BOARD

Various changes relating to the Board of Behavioral Health Examiners, including requiring the Board to adopt rules regarding the use of "telepractice" (defined) beginning on November 1, 2015. The Board Executive Director is authorized to dismiss a complaint if the investigative staff's review indicates that the complaint is without merit and that dismissal is appropriate. The Board is required, instead of permitted, to establish an academic review committee for each professional area licensed, and committee members are required to receive at least five hours of training within one year after appointment, which must include specified topics. Beginning January 2, 2016, the Governor is required to appoint the academic review committee members.

2/16 passed Senate 29-0; ready for House. At 3/19, awaiting third reading in the House.

S1241: AHCCCS; CONTRACTORS; PROVIDERS

The AHCCCS Director is prohibited from mandating or prescribing the nature of the relationship between AHCCCS contractors and AHCCCS providers and their agents, and from making contracting or payment decisions based on specified factors.
Senate hel-hu ser with amend #4160.

S1257: MEDICAL LICENSURE; STATE PROGRAMS; PROHIBITION

The Arizona Medical Board and Arizona Board of Osteopathic Examiners are prohibited from requiring a licensee to pass any periodic licensing examination to demonstrate professional competency unless specifically authorized by statute, and from requiring a “specialty certification” or “maintenance of a specialty certification” (both defined) as a condition of licensure. Any state agency, board or commission is prohibited from requiring a specialty certification or maintenance of a specialty certification for licensed physicians as a condition of participation in any program that accepts state monies.

2/16 to Senate consent calendar.

S1258: MEDICAL BOARD; AFFILIATION VERIFICATION; RULEMAKING

The Executive Director of the Arizona Medical Board is required to submit to the medical consultant only those medical complaints that involve a standard of care issue and that require medical training and expertise to determine whether a violation has occurred. If a Board license applicant is employed by a hospital or medical group or organization, the Board is required to accept the verification or affiliations or employment from the applicant’s employer.

2/10 stricken from Senate consent calendar by Barto.

S1283: OUTPATIENT TREATMENT CENTERS; COLOCATION; RESPITE

One or more outpatient treatment centers that provide medical, nursing and health-related services are authorized to collocate with one or more licensees that provide behavioral health services and are authorized to share common areas and nontreatment personnel. Requirements for collocation applications and use of treatment areas are specified. The Department of Health Services is required, instead of allowed, to adopt licensing provisions that facilitate the collocation and integration of outpatient treatment centers that provide medical, nursing and health-related services with behavioral health services.

2/11 Senate hel-hu ser held.

S1284: DIRECT PAYMENTS; PROVIDERS; FACILITIES; DEDUCTIBLE

If a health insurance enrollee pays the direct pay price to a health care provider or facility for a lawful health care service, the amount paid by the enrollee must be applied to his/her in-network deductible regardless of whether the provider or facility is a contracted network provider for the enrollee’s health care plan.

2/16 passed Senate 23-6; ready for House.

S1288: PRESCRIPTION DRUG COVERAGE; MEDICATION SYNCHRONIZATION

A health or disability insurance contract or evidence of coverage that is issued or renewed on or after January 1, 2016 and that provides coverage for prescription drugs is prohibited from denying coverage and must prorate the cost sharing rate for a covered prescription drug that is dispensed by a network pharmacy for less than the standard refill amount if specified conditions are met. A health or disability insurance contract or evidence of coverage that is

issued or renewed on or after January 1, 2016 and that provides coverage for prescription drugs is required to allow a pharmacy to override a denial code related to an early refill if the drug is being dispensed as part of a “medication synchronization” (defined) program, and is required to pay a full pharmacy dispensing fee for each prescription drug dispensed and cannot prorate a dispensing fee.

2/10 stricken from Senate consent calendar by Yee.

S1290: INDEPENDENT MEDICAL EXAM; BOARD COMPLAINTS

A physician is not subject to a complaint for unprofessional conduct to the physician’s licensing board if the complaint is based on a disagreement with the findings and opinions expressed by the physician as a result of a medical examination for the purpose of unemployment insurance compensation or an independent medical examination pursuant to a court order.

2/16 to Senate consent calendar.

S1297: PSYCOTROPIC DRUGS; FOSTER CHILDREN; REPORT

By June 30 of every even numbered year, the Department of Health Services, the Department of Child Safety and the AHCCCS Administration are required to prepare a report that compares the prescription rate of “psychotropic medications” (defined) prescribed to foster children who receive services from AHCCCS with the prescription rate of psychotropic medications prescribed to nonfoster children who receive those services. The report must be submitted to the chairpersons of the House Children and Family Affairs Committee and the Senate Health and Human Services Committee, or their successor committees.

1/29 referred to Senate hel-hu ser.

S1315: INCOMPENTENT AND DANGEROUS DEFENDANTS; TREATMENT

The list of conditions under which the court may order a defendant to be involuntarily confined until an examination of competency to stand trial is completed is expanded to include that the defendant is charged with a “serious offense” or a “violent or aggravated felony” (both defined elsewhere in statute). If a mental health expert determines that there is no substantial probability that a defendant will regain competency to stand trial within 21 months, the expert’s report must include whether the defendant should be considered “dangerous” (defined) or may be a sexually violent person. If the court holds a competency hearing, the state is required to prove by clear and convincing evidence that the defendant is dangerous and committed the charged offense. The court is permitted to retain jurisdiction over a defendant throughout the time necessary to determine the defendant's appropriate treatment options and the implementation of the court's treatment orders. The court is authorized to order an assessment to determine the defendant's eligibility for private insurance or public benefits that may be applied to the expenses of the treatment. Counties are authorized to establish a behavioral health advisory board to recommend to the court a continuum of care plan for a defendant and supervise the delivery of services to the defendant, and powers and duties of an advisory board are specified. More.

Any qualified health insurance policy, contract or plan offered through any health care exchange operating in Arizona, instead of any state health care exchange established in Arizona, is prohibited from providing coverage for abortions, and abortion coverage is no longer permitted to be offered as a separate optional rider for which an additional premium is charged. On initial licensure and any subsequent renewal, an abortion clinic is required to submit to the Department of Health Services all documentation required by statute.

2/16 from Senate hel-hu ser do pass. At 3/19, Bill is currently dead.

S1370: CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM

Various changes related to the Controlled Substances Prescription Monitoring Program, including repealing the statutory termination date of July 1, 2017 for the Program. A “medical practitioner regulatory board” (defined) is required to monthly notify the State Board of Pharmacy of any initial licensures for medical practitioners who intend to apply for registration under the federal Controlled Substances Act and licensure renewals for medical practitioners. On receipt of this information, the Board is required to register each practitioner, provide the practitioner access to the Program’s central database tracking system and notify the practitioner of the registration and access. The list of persons the Board may release information from the Program to is expanded to include county medical examiners, forensic pathologists and medical death investigators who are involved with a death investigation. By July 1, 2016 and for two years following that date, the Board is required to report specified information about the Program tracking system to the Governor and the Legislature. Effective January 1, 2016.

2/12 from Senate hel-hu ser with amend #4157. As of 3/19, sent to Governor.

S1404: HEALTH CARE DIRECTIVES; CONFLICTS

If there is a conflict between a provision of a valid health care directive or the decision of a patient's agent pursuant to a valid health care power of attorney and a health care provider's order, the health care directive or decision of the patient's agent is presumed to represent the wishes of the patient.

2/11 referred to Senate hel-hu ser.

SCR1003: INTERSTATE MEDICAL LICENSURE COMPACT; OPPOSITION

The members of the Legislature oppose any participation in the Federation of Medical State Licensure’s Interstate Licensure Compact.

2/16 to Senate consent calendar.