HEALTH CARE LEGISLATIVE REPORT FOR 2014

Still recovering from the legislative battles surrounding the prior Legislative Session and the Governor’s Arizona Health Care Cost Containment System (AHCCCS) expansion proposal, the 51st Legislature, Second Regular Session, 2014, did not see many controversial pieces of legislation. As reported earlier, one development of note is that probably for the first time since the Sunrise process was established in 1985, a piece of health care legislation was passed without coming out of the Sunrise Committee. It was an optometrist scope of practice bill that was heard in Sunrise but withdrawn and not voted upon. The Bill (originally introduced as S1362, now H2380) did pass. This leaves Arizona with some real concerns for the Sunrise process. Following is a summary of relevant health care legislation adopted in 51st Legislature, Second Regular Session. 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, please contact teri@azmed.org.


H2087: HEALTH REGULATORY BOARDS; TRAINING REQUIREMENTS
Beginning January 1, 2015, each member of a “health profession regulatory board” (defined) is required to complete a 12-hour training including specified subjects within one year after appointment to the board. Any member of a health profession regulatory board whose initial appointment was before January 1, 2015 has until January 1, 2016 to complete the required training.

H2105: COURT-ORDERED EVALUATIONS; PEACE OFFICERS
Peace officers are authorized to take into custody any individual the officer has probable cause to believe is a danger to self or others as a result of a mental disorder, instead of only those individuals where the probable cause is based on the officer’s own observations. Emergency clause.

H2172: BD OF PSYCHOLOGIST EXAMINERS; PSYCHOLOGISTS
The Board of Psychologist Examiners is required to adopt rules regarding the use of "telepractice" (defined) by June 30, 2016. Beginning July 1, 2016, up to 50 percent of the in-person supervision required for Board licensure may be completed using telepractice supervision, increased from the 20 percent that previously could be completed using electronic means. Beginning January 1, 2015, the Board is authorized to issue a temporary license to an applicant who is working under supervision for postdoctoral experience and who meets other specified statutory requirements. A temporary license issued in this circumstance is effective for 36 months and is subject to an initial license fee, but is not subject to renewal. Effective beginning May 1, 2017, a schedule of license renewal is implemented where licensees holding an odd-numbered license must renew their license in each odd-numbered year and licensees holding an even-numbered license must renew their license in each even-numbered year. Session law requires all licensed psychologists to renew their licenses by April 30, 2017 in order to implement the new schedule. The Board must prorate fees and continuing education requirements for the licensees.
H2173: PSYCHOLOGY BOARD; BEHAVIOR ANALYSTS
The statutory requirements for licensure as a behavior analyst are deleted, and an applicant must instead meet standards adopted by the Board of Psychologist Examiners, which must include graduate level education, supervised experience and passing a national examination. The Board is required to adopt standards consistent with those set by a nationally recognized behavior analyst certification board, with some exceptions. Repeals statute governing examinations for behavior analysts. Effective beginning May 1, 2017, a schedule of license renewal is implemented where licensees holding an odd-numbered license must renew their license in each odd-numbered year and licensees holding an even-numbered license must renew their license in each even-numbered year. Session law requires all licensed behavior analysts to renew their licenses by April 30, 2017 in order to implement the new schedule. The Board must prorate fees and continuing education requirements for the licensees.

H2322: NATIONAL INSTANT CRIMINAL BACKGROUND CHECKS
If a person is found incompetent, subsequently found competent, or is found guilty except insane by a court, the court is required to transmit specified case information to the Supreme Court, and the Supreme Court is required to transmit it to the Department of Public Safety. The Dept is required to transmit the case information to the National Instant Criminal Background Check System. Unless the court makes a specific finding that the appointment of a guardian is due solely to a ward’s physical incapacity, at the time of appointing a guardian, the court is required to transmit information on the ward and the guardian’s appointment to the Supreme Court, and the Supreme Court is required to transmit it to the Dept for transmittal to the National Instant Criminal Background Check System. The definition of "prohibited possessor" of a deadly weapon and the list of persons prohibited from obtaining a security guard agency license are expanded to include any person who has been found incompetent according to the Arizona Rules of Criminal Procedure and any person who is found guilty except insane. Effective January 1, 2015.

H2367: AHCCCS; ANNUAL WAIVER SUBMITTALS (VETOED BY GOVERNOR)
By March 30 of each year, the AHCCCS Director would have been 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 adults receiving AHCCCS services, place a lifetime limit of five years of benefits on "able-bodied" (defined) 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 would have been required to submit a letter confirming the submission of the waiver requests to the Governor and the Legislature. AS VETOED BY GOVERNOR. Her veto message stated that the waiver mandated by the bill would have had a negative impact on the citizens of Arizona by resulting in a high level of uncompensated care and the destabilization of Arizona’s health care industry.

H2377: INCOME TAX BRACKETS; INFLATION INDEX
For tax year 2015, the Department of Revenue is required to adjust the income dollar amounts for each individual income tax rate bracket by the average annual change in the metropolitan Phoenix consumer
price index. The revised dollar amounts must be raised to the nearest whole dollar and cannot be revised below the amounts prescribed in the prior tax year.

**H2380: OPTOMETRISTS; PHARMECEUTICAL AGENTS (TAX LIENS; PRIORITY)**
Board of Optometry licensees are authorized to prescribe, dispense and administer anti-infectives, agents for the treatment of angle-closure glaucoma, steroids in an amount that does not exceed the amount packaged for a single course of therapy of up to seven days, and any controlled substance that is an analgesic that is reclassified from schedule III to schedule II after January 1, 2014. Limits on the length of time licensees may prescribe antibiotics, antivirals, antihistamines and nonsteroidal anti-inflammatory agents are deleted. Licensees are prohibited from prescribing, dispensing or administering an oral pharmaceutical on a controlled substance to a person who is under six years of age.

**H2453: SYNTHETIC DRUGS; REPORTING**
For the purpose of the Criminal Code, the definitions of “dangerous drug” and “narcotic drugs” are expanded to include specified substances. An entity that sells or otherwise furnishes any precursor chemical or regulated chemical to any person in Arizona and is required to report those transactions to a federal agency is no longer required to submit a report of the transactions to the Department of Public Safety. Emergency clause.

**H2457: MENTAL HEALTH; VETERANS COURTS; ESTABLISHMENT**
The presiding judge of the superior court in each county is authorized to establish a veterans court and mental health court. The judge must establish the eligibility criteria for referral to these courts.

**H2508: INSURANCE; NAVIGATOR; APPLICATION COUNSELOR; LICENSURE**
Adds a new article to Title 20 (Insurance) regulating insurance "navigators" and "certified application counselors" (both defined). Applies to a person who acts or claims to be a navigator or certified application counselor beginning October 1, 2014. Some exceptions. Establishes requirements for licensure and authorizes the Department of Insurance to examine and investigate the business affairs and records of any navigator or certified application counselor for enforcement purposes. Various existing insurance regulations apply to navigators and certified application counselors. Conditionally repealed on federal law relating to health benefit exchanges being declared unconstitutional by the U.S. Supreme Court or being repealed by the U.S. Congress by January 1, 2024.

**H2549: NURSING CARE INSTITUTION; THERAPEUTIC DRUGS**
A nursing care institution’s quality assessment and assurance committee established pursuant to federal code is authorized to establish written guidelines or procedures for making therapeutic substitutions if the committee membership includes a licensed pharmacist. A pharmacy used by a nursing care institution is authorized to make therapeutic substitutions consistent with the institution's written guidelines or procedures if the substitution is approved by the patient's licensed health care provider who has prescription authority.
**H2605: TEACHERS; SUICIDE PREVENTION; CONTINUING EDUCATION**
The State Board of Education is required to adopt rules to allow certificated teachers and administrators to count suicide awareness and prevention training programs as continuing education credits. Retroactive to July 1, 2014.

**H2667: PERSONS WITH DISABILITIES**
The state is required to use the term "persons with disabilities" in all laws, rules, publications, orders, actions, programs, policies and signage. The state must revise these items to use the term "persons with disabilities" only when updates are otherwise necessary. Statutory terminology is changed to "a person with a disability" or a "person with a developmental disability" instead of "disabled" or "developmentally disabled," and the term "disability" replaces the term "handicap." Contains a legislative intent section.

**H2701: TPT; HEALTH SCIENCES INSTITUTIONS; EXEMPTION**
The lists of exemptions from the retail classification, publication classification and job printing classification of transaction privilege taxes and use taxes, and the list of items municipalities are prohibited from levying transaction privilege taxes on are expanded to include gross income from tangible personal property, job printing or publications sold to or purchased by a "qualifying health sciences educational institution" (defined).

**H2705: BUDGET; BRB; HEALTH; WELFARE; FY2014-15**
Makes various policy changes in the areas of public health and welfare that affect the budget. Specifies county contributions for the Arizona Long-Term Care System, and AHCCCS acute care and hospitalization and medical care for FY2014-15. For the contract year beginning October 1, 2014 and ending September 30, 2015, the AHCCCS Administration is authorized to continue the risk contingency rate setting for all managed care organizations and the funding for all managed care organizations administrative funding levels that was imposed for the contract year beginning October 1, 2010. The list of medically necessary health and medical services covered by AHCCCS is expanded to include insulin pumps. Political subdivisions, tribal governments and public universities are authorized to designate disproportionate share hospitals (DSH) to receive DSH payments in an amount up to the limit prescribed by federal law if those entities provide sufficient monies to qualify for the matching federal monies for the DSH payments. DSH payments for FY2014-15 include $89.9 million for a qualifying nonstate operated public hospital, $4.2 million of which must be distributed to the Maricopa County Special Health Care District, $28.5 million for the Arizona State Hospital, and $9.3 million for private qualifying hospitals. Prohibits the DSH payment attributed to the Maricopa County Special Health Care District from exceeding $89,877,700. Counties are required to reimburse the Department of Health Services (DHS) for the costs of a commitment of an individual who is determined by the court to be sexually violent for FY2014-15 at a percentage determined by DHS. States that the intent of the Legislature is that DHS not increase the percentage rate of the county share of costs in FY2014-15 relative to FY2013-14. Municipalities and counties are required to reimburse DHS for 100 percent of the costs of a defendant’s inpatient, in custody competency restoration treatment for FY2014-15. The Department of Economic Security (DES) is authorized to reduce maximum income eligibility levels for child care assistance in order to manage
within appropriated and available monies. During FY2014-15, DES is required to screen and test each adult recipient of Temporary Assistance for Needy Families cash assistance who the Dept has reasonable cause to believe engages in the illegal use of controlled substances, and any recipient who tests positive for the use of a controlled substance that was not prescribed by a licensed health professional is ineligible to receive benefits for one year. Establishes various reporting requirements.

**S1035: SPECIAL HEALTH DISTRICTS; REIMBURSEMENT (DOGS; LICENSING; VACCINATIONS)**

Counties with a population of 2 million or more persons (Maricopa County) are required to reimburse the special health care district in that county for any services provided, instead of being required to purchase services from the district in an amount of at least $5 million per year for the term of any tax levy authorized for that district.

**S1051: MEDICAL BOARD; PRO BONO REGISTRATION (TECH CORRECTION; MILITARY AFFAIRS)**

Applicants for a pro bono registration with the Arizona Medical Board are required to provide the Board with the name of each state in which the person is licensed or has held a license, instead of providing proof that the person meets applicable license requirements. The Board is required to verify with the applicable regulatory board of each state that the applicant is licensed or has held a license, has never had a license revoked or suspended and is not the subject of an unresolved complaint. Retroactive to January 1, 2013 to applications submitted to the Board for calendar year 2014. Emergency clause.

**S1077: BEHAVIORAL HEALTH PROFESSIONALS; RECIPROCAL LICENSES**

The Board of Behavioral Health Examiners is required to reclassify the license of a person who held an active reciprocal license on September 12, 2013, was granted the reciprocal license pursuant to statutory requirements in effect on that date, and meets other statutory requirements. The Board is required to issue a license under this requirement in the same discipline and at an equivalent practice level as the previously issued reciprocal license.

**S1091: SUNRISE; COMMITTEES OF REFERENCE; REFERRAL**

The Joint Legislative Audit Committee is removed from the sunrise process for the regulation of new health professions and nonhealth professions and occupations, and sunrise reports are submit directly to the President of the Senate and the Speaker of the House of Representatives.

**S1124: CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM**

Updates the version of the standard implementation guide that dispensers of controlled substances must use for the Controlled Substances Prescription Monitoring Program, and expands the list of persons who may receive data collected by the Program to include a "delegate" (defined) who is authorized by a prescriber or dispenser.

**S1135: QUALIFIED IMMUNITY; NONPROFIT CLINICS**

Statute exempting health professionals providing care within the scope of their licensure at a nonprofit clinic from liability in a medical malpractice action, unless the professional was grossly negligent, is expanded to include medical or dental screening and optometric treatment or screening. Also adds a definition of "nonprofit clinic" for the purpose of the immunity.
S1216: LICENSURE; BEHAVIORAL HEALTH SERVICES
The Department of Health Services is authorized to adopt licensing provisions that facilitate the colocation and integration of outpatient treatment centers that provide medical services with behavioral health services. For the purpose of health care institution licensure and regulation, the definitions of "health care institution" and "residential care institution" are expanded to include institutions that provide "behavioral health services" (defined).

S1309: COURT-ORDERED SERVICES; DEPENDENT CHILDREN
If the court determines that services supplemental to those provided through the Department of Economic Services are available to dependent children from another source at no cost to the state, the court may order the services on agreement of the provider. The court is authorized to employ individuals to facilitate collaboration between the parties and ensure the delivery of court-ordered services. If appropriate facilities are available to the juvenile court, the presiding judge of the superior court is authorized to enter into agreement for the use of those facilities by a provider of juvenile shelter or treatment services.

S1337: FOREIGN PRESCRIPTION ORDERS
A pharmacist is authorized to fill a new written prescription order for a drug or device issued by a medical practitioner licensed by the appropriate licensing board of any foreign country, instead of only Canada or Mexico, except for prescription orders for a controlled substance.

S1339: PHYSICIANS; PRESCRIPTIONS; REQUIRED PATIENT EXAMINATIONS
For the purpose of unprofessional conduct for licensed physicians and naturopathic physicians prescribing or furnishing a prescription medication without a physical examination, the examination may be conducted during a real-time telemedicine encounter with audio and video capability that meets the elements required by the Centers for Medicare and Medicaid Services. Some exceptions, including for examinations to obtain a written certification for medical marijuana. A licensed pharmacist knowingly dispensing a drug on a prescription order that was issued pursuant to diagnosis by mail or the internet is not unprofessional conduct in specified circumstances, including if the prescription order was made in an emergency medical situation or was written for use by a county or tribal public health department for immunization programs or emergency treatment or in response to a public health emergency.

S1380: ARIZONA MEDICAL BOARD; LICENSEES; FINGERPRINTING
Various changes relating to the Arizona Medical Board. The statutory termination of the Board is moved to July 1, 2019 instead of July 1, 2022. The annual report the Board submits to the Governor must also be submit to the Arizona Regulatory Board of Physician’s Assistants and the members of the health committees of the Legislature or their successor committees, and information that must be included in the report is specified. Any credential information required to be submitted to the Board must be submitted from the primary source where the information originated, with some exceptions. The Board is required to biannually conduct random audits of at least 10 percent of physicians to verify continuing medical education compliance. Beginning September 2, 2014, applicants for licensure by the Board are
required to submit a full set of fingerprints to the Board for the purpose of obtaining a state and federal criminal records check. Emergency clause.

**S1381: ARIZONA MEDICAL BOARD; SUPPLEMENTAL APPROPRIATION**
Makes a supplemental appropriation of $855,000 from the Arizona Medical Board Fund in FY2013-14 to the Arizona Medical Board to contract with an in-state credentials verification service to review all initial and renewal applications received by the Board from October 1, 2011 through February 5, 2014.

**S1392: UNIVERSITIES; INTELLECTUAL PROPERTY**
The Arizona Board of Regents is required to maintain intellectual property policies that allow the licensing, assignment or other transfer of intellectual property owned by ABOR to third parties if the transfer is in the best interest of the state and the university system or otherwise promotes the dissemination of university research for the public benefit. ABOR or a university may enter into agreements to transfer intellectual property owned by ABOR to a university officer or employee or to an entity in which an officer or employee maintains a substantial interest.

**S1404: DIRECT CARE PLANS; INSURANCE; EXEMPTION**
A "direct primary care provider plan" (defined as a primary care provider, entity or practice that collects prepaid fees to conduct primary health care for enrollees) does not constitute the transaction of insurance business or a health care services organization for the purposes of insurance regulations, providing the plan does not assume financial risk or agree to indemnify for services provided by a third party. A direct primary care provider plan is permitted to arrange for primary health care for enrollees in Arizona. Requirements for direct primary care provider plans are specified, including that plans must be in writing and provide a specified written disclaimer.