

## **Arizona Academy of Family Physicians 2010 Legislative Wrap-Up**

The 49th Legislature, second regular session, adjourned *sine die* on April 29, 2010, at 11:07 p.m. Since the conclusion of its first regular in July 2009, the Legislature also completed five special sessions. A total of 1,233 bills were introduced during the 109-day second regular session, with 352 bills being passed and sent to the Governor for signature. In total, 338 bills were signed or filed into law and 14 bills were vetoed. Unless otherwise noted, bills from the second regular session become effective on July 29, 2010. Bills with an emergency clause became effective upon signature.

Attached you will find a brief summary of special sessions, as well as a summary of noteworthy enactments from the second regular session. We have also included a few of the unsuccessful bills that were of interest to the AzAFP. Final versions of bills and related materials are available at the Arizona State Legislature Web Page: [www.azleg.gov](http://www.azleg.gov).

Please let us know if you have any questions or would like additional information.

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### **I. SPECIAL SESSIONS**

#### ***Fourth Special Session***

This session, which began on October 17, 2009, was called to address issues with the FY 2010 budget that was passed in June, 2009. The Governor's July veto of some of the original budget bills and the severe economic downturn made budget adjustments necessary. During this session, legislators also passed bills designed to meet new federal stimulus guidelines to allow Arizona to bring in more federal dollars for health care and education.

#### ***Fifth Special Session***

This session began on December 17, 2009, and was called to make further revisions to the FY 2010 budget. The worsening fiscal crisis had again thrown the State's budget out of balance. The session ended two days later on December 19, with the passage of SB 1001. Among other things, SB 1001 reduced all agency budgets by 5% and reverted millions of dollars from agency accounts to the general fund.

#### ***Sixth Special Session***

This 10-day session was called on February 1, 2010, running concurrently with the second regular session, to address budget, taxes and lottery revenue bonds. Four bills were passed. One of these bills established a special election for a temporary one-cent sales tax. (Note: The election was held on May 18, 2010, and the measure passed with 65% support. The increase is estimated to bring in \$900 million in FY 2011.)

### ***Seventh Special Session***

This session was called on March 8, 2010, to complete the necessary changes to the FY 2010 budget and finalize the FY 2011 budget. The session ended a week later on March 15th and the Governor signed the FY 2011 budget bills on March 18th.

Some of the important enactments of this special session include: the repeal of KidsCare (later restored); the repeal of Full-Day Kindergarten; the repeal of state employees' performance pay; the reduction of state employee salaries by 2.75%; authorization to implement mandatory furloughs for state employees of one day in FY 2010 and six days in each of FY 2011 and FY 2012. Several changes were also made to the AHCCCS program, including a restriction on the increase of provider rates to AHCCCS above those in effect as of September 30, 2010, an allowance for a further 5% reduction in provider rates, and a two-month suspension of AHCCCS capitation payments to acute health plans.

### ***Eighth Special Session***

This session was called in response to the enactment of the federal government's Health Care Reform Bill solely to authorize the Governor to have Arizona join other states in the lawsuit against the federal government over the Health Care Reform provisions. This bill was passed and signed by the Governor.

## **II. SECOND REGULAR SESSION**

### ***Enactments***

#### **HB 2021: PHYSICIAN ASSISTANT; PRACTICE (Chapter 172)**

This bill makes numerous changes to statutes pertaining to physician assistants (PAs). The list of responsibilities of the supervising physician is changed to require an annually updated, signed, written agreement between physician and PA stating the physician's responsibilities for supervision. The PA may not perform any health care tasks until the agreement is completed and signed. Effective January 1, 2011.

#### **HB 2025: CHIROPRACTIC SERVICES (Chapter 26)**

No business may offer chiropractic services unless the entity establishes a written protocol for the secure storage, transfer and access of medical records of patients. Non-compliance is a class 6 felony. In addition, the word "physiotherapy" is struck from licensing statutes and replaced by "physical medicine modalities" and "therapeutic procedures," each of which is newly defined.

HB 2080: PUPILS WITH CHRONIC HEALTH PROBLEMS (Chapter 208)

The list of health professionals who may certify to a school that a pupil has a chronic health problem includes chiropractors, naturopathic physicians, and physician assistants. School board policies concerning pupils with chronic health problems cannot be construed to obstruct, interfere with, or override the rights of parents or guardians; nor may they permit school personnel to authorize absences without parental consent, or to recommend, prescribe or provide medication without parental consent.

HB 2116: AMBULANCE SERVICES; RATES; AHCCCS MEMBERS (Chapter 86)

Reimbursement for ambulance service to AHCCCS clients is set at 80% of the rate established by the Department of Health Services (DHS). Session law delays implementation of the 80% rate until September 30, 2011, setting the reimbursement rate for AHCCCS clients until then at 76% of the DHS rate. Session law also authorizes AHCCCS to further reduce ambulance reimbursement rates effective October 1, 2010, through September 30, 2011. Also, state universities are added to the list of entities that may provide monies for graduate medical education in order to qualify for additional matching federal monies. As session law, permits disproportionate share payments to go to hospitals designated by political subdivisions, state universities or tribal governments in the state, and contingent upon approval by the federal government, permits those entities to provide matching monies for disproportionate share payments to the designated hospitals.

HB 2124: OUTPATIENT TREATMENT CENTERS; INITIAL OPERATION (Chapter 121)

New outpatient treatment centers, except those that provide dialysis or abortion services, may begin operation before an initial licensing inspection with a temporary license issued by the DHS upon receipt of properly completed forms and payment of fees.

HB 2187: OSTEOPATHIC BOARD (Chapter 125)

This bill authorizes the president of the board of osteopathic examiners to establish committees to carry out the functions of the board. Allows the board to develop and publish advisory opinions and standards governing the osteopathic profession. Session law authorizes the board to require selected licensees whose renewal date is January 1, 2012, to renew for a one-year period for a prorated fee, after which the licensees will resume renewing biannually.

HB 2405: EMERGENCY MEDICAL SERVICES COUNCIL (Chapter 71)

This bill establishes a 28-member emergency medical services council.

HB 2425: VULNERABLE ADULTS; ATTORNEY FEES (Chapter 84)

Attorney fees awarded in a suit relating to care of a vulnerable adult cannot exceed the amount of compensatory damages. Previously, the limit was two times the compensatory damages.

HB 2469: CERTIFIED MEDICATION ASSISTANTS (Chapter 90)

The board of nursing is required to establish a certification program for medication assistants whereby they may administer medication under supervision of licensed nurses to residents of a licensed nursing care facility. Requirements include training programs, examinations and other qualifications. Nurses are authorized to delegate administration of medication to a nursing assistant who is certified as a medication assistant.

HB 2499: PRESCRIPTIONS; ELECTRONIC SUBMISSION BY PATIENT (Chapter 92)

A pharmacy may fill a prescription faxed or emailed by the patient if, at time of pick-up, the patient presents a hard copy of the prescription with the medical practitioner's manual signature.

HB 2545: PROFESSIONS; DISMISSED COMPLAINTS; RECORDS (Chapter 322)

If a professional regulatory board dismisses a complaint or issues a nondisciplinary order, the record of the complaint remains available to the public as well as to the regulatory board but is not available on the agency's website. If the agency issues an advisory letter or letter of concern or imposes a practice limitation, documentation related to that action may appear on the agency's website. A regulatory board that maintains a website shall post a notice on its website informing the public that additional public records related to a licensee, including dismissed complaints and nondisciplinary actions, are available by contacting the board directly. Regulatory boards must comply with this act by January 1, 2012.

SB 1043: HEALTH CARE FUNDING; KIDSCARE & PROPOSITION 204 (Chapter 232)

Reinstates the KidsCare Program and restores funding to programs associated with Prop. 204. Funding is contingent on Congress' extension of the enhanced federal match rate for medical assistance through June 30, 2011. An amendment states it is the Legislature's intent to authorize expenditure of an additional \$385 million on Prop. 204 programs and \$49.9 million on KidsCare. County contributions to the Arizona Long Term Care System (ALTCS) are reduced by an aggregate \$76 million. Also, children of state employees are covered under their parents' state-funded health insurance until their 26th birthday. Formerly, their coverage terminated at 19 or, if the child was a full-time student, at 23.

SB 1182: PSYCHIATRIC MENTAL HEALTH NURSE PRACTITIONERS (Chapter 272)

The board of nursing is authorized to certify registered nurses as psychiatric and mental health nurse practitioners. Certified psychiatric and mental health nurse practitioners are authorized to perform various mental health services.

SB 1189: ADMISSIBILITY OF OPINION TESTIMONY (Chapter 302)

This bill establishes requirements that must be met to qualify persons as expert witnesses in a civil or criminal action. Also establishes factors to qualify expert opinion testimony in such cases as admissible. (This bill changes the standard used to determine the eligibility of expert witness testimony from the *Frye* standard to the *Daubert* standard.)

SB 1255: HEALTH PROFESSIONALS; ADVERTISING; DISCLOSURE (Chapter 110)

Advertisements for health care services that include a health professional's name must identify the title and type of license under which the health professional is practicing. Violations are considered an act of unprofessional conduct.

SB 1285: OPTOMETRISTS; MEDICATIONS (Chapter 58)

The list of medications optometrists are permitted to dispense is changed to replace mention of three specific antibiotics with macroides and antivirals. The list of substances optometrists were specifically forbidden to prescribe is shortened by eliminating oral antivirals.

SB 1304: ABORTION; REPORTING REQUIREMENTS (Chapter 111)

Health care facilities where abortions are performed must submit to DHS a report of each abortion performed. Required information includes: the woman's race and ethnicity, marital status, number of prior pregnancies and abortions, number of spontaneous terminations of pregnancy, gestational age of the fetus, and reason for the abortion. The report must be signed by the physician who performed the procedure or by the health professional authorized to prescribe abortion medication. Additionally, a similar report is required in cases where a woman needs health care due to a complication resulting from an abortion. DHS must compile the reports into a comprehensive annual statistical report. The comprehensive report and the number of court-approved petitions for abortions to be performed on pregnant minors must be posted on the DHS website for public inspection and copying.

SB 1305: PUBLIC MONIES; INSURANCE; ABORTION; PROHIBITION (Chapter 114)

With stated exceptions, public monies may not be used to pay insurance premiums for plans that include abortion services. If abortion coverage is provided by the health insurance plan, premiums for that coverage must be offered as a separate optional rider for which an additional premium is charged to and paid by the insured and not the employer.

SB 1306: HUMAN EGG PROVIDERS; PROTECTION (Chapter 280)

It is a class 1 misdemeanor to purchase or offer to purchase a human egg for any purpose other than treatment or study of infertility. Physicians who do so are guilty of unprofessional conduct and are subject to license suspension or revocation. An egg donor is the patient of the harvesting physician; the procedure must be performed in a properly licensed facility. The physician must inform the donor of a prescribed set of information.

SB 1307: HUMAN EMBRYOS; TREATMENT (Chapter 281)

It is a class 1 misdemeanor to intentionally or knowingly create or attempt to create an in vitro human embryo by any means other than fertilization by human sperm. A person shall not attempt to create a human-animal hybrid, transfer a human embryo into a nonhuman womb or transfer a nonhuman embryo into a human womb. It is also unlawful to sell, offer to sell or purchase an in vitro human embryo except for services associated with otherwise lawful treatment of infertility. Further, it is a class 6 felony to intentionally or knowingly engage in destructive human embryonic stem cell research.

SB 1309: PARENTS; RIGHTS (Chapter 307)

Rights reserved to a parent of a minor child without interference from the state include, but are not limited to the following: to direct the education, upbringing and moral/religious education of the minor child; to make health care decisions for the child unless otherwise prohibited by law; to access and review all records of the child, including medical records; to consent in writing before a biometric scan, DNA record, video or voice recording is made of the child; to obtain information about a child protective services investigation involving the parent. Also, schools are required to provide parents with information outlining procedures by which they may learn about instructional materials, policies related to parental involvement, rights to opt out of certain assignments, rights to opt out of sex education classes, rights to opt out of immunizations, open enrollment rights, and rights to review courses of study and texts. Additionally, restrictions are placed on mental health screening performed in a nonclinical setting or mental health treatment on a minor without permission of the parent/guardian.

SB 1326: ATHLETIC TRAINING BOARD; OMNIBUS (Chapter 81)

For the purposes of regulation, the definition of "athletic training" is expanded to include the prevention, evaluation immediate care and monitoring of "athletic illnesses," defined as an illness that occurs during a person's participation in or preparation for recreational or physical fitness activities. A physician providing direction to an athletic trainer is not subject to civil liability for providing that direction except in cases of gross negligence or intentional misconduct.

*Unsuccessful Bills*

HB 2126: STRIKER: NATUROPATHIC PILOT PROGRAM

AHCCCS is authorized to approve a naturopathic treatment pilot program to permit one contractor to refer members who suffer from a chronic condition to a naturopathic physician who is properly licensed and operating within the profession's scope of practice. Cost of treatment must be from private sources. The program, which is subject to availability of private funding and grants, begins September 1, 2010, and ends September 1, 2012.

HB 2465: LIMITED LIABILITY; PHYSICIANS; EXAMINATIONS

With some exceptions, licensed physicians owe no duty of care and are not liable for any civil or other damages for failing to diagnose, treat or identify a medical condition or failing to communicate the findings of an examination conducted for workers' compensation, pre-employment, or in an action for damages under an insurance policy.

SB 1010: CHILD RESTRAINT SYSTEMS

When riding in a vehicle manufactured for the 1972 model year and thereafter and that is designed to carry up to 10 passengers, children aged 5 through 8 who are shorter than 4'9" must use a child restraint system. Law enforcement must consider this a secondary offense and may not issue a citation unless the officer has reasonable cause to believe there is another alleged violation of the law.

SB 1215: AHCCCS; INTEGRATIVE THERAPIES PILOT PROGRAM

Beginning January 1, 2011 and ending October 1, 2014, an integrative therapies pilot program is established within AHCCCS to treat up to 500 patients with a "chronic condition" (defined). Under the pilot program, the list of covered medical services for AHCCCS patients is expanded to include chiropractic services.

SB 1258: MEDICAL RECORDS; DISCLOSURE; RELEASE

The list of entities required to release medical information to health care providers or other specified entities without written authorization from the patient is expanded to include clinical laboratories. Also, the list of entities to which otherwise confidential medical records may be released is expanded to include one that provides services to the patient's health care provider(s) and with whom the provider has a business associate agreement requiring the entity to protect the confidentiality of patient information. Such entities are also permitted access to the health care directives registry maintained by the secretary of state.

SB 1334: CELL PHONE USE; TEXTING; DRIVING

Effective January 1, 2011, it is a civil traffic violation to use a handheld cellular telephone or personal digital assistant to write, send, or read a message while operating a motor vehicle. Violations are subject to a civil penalty of \$50, or \$200 if the person is involved in an accident.

SB 1390: BEHAVIORAL HEALTH CARE; PILOT PROGRAM

AHCCCS contracts for behavioral health services for persons other than adults with serious mental illness and persons under 21 years of age are transferred from DHS to private contracts. By July 1, 2011, AHCCCS and DHS shall begin a 2-year pilot program to implement an integrated physical and behavioral health service delivery model for adults with serious mental illness.