

2016 Legislative Report

INTRODUCTION

From an advocacy perspective, the best measure of a state medical association's effectiveness is how well it handles political adversity in general, and specifically, how effectively it responds to threats against and opportunities to enhance the practice of medicine. Using that litmus test, the 2016 legislative session was one in which Arizona Medical Association (ArMA) resoundingly demonstrated that it is a highly effective advocate for Arizona physicians. The ArMA policy team and your voice at the Capitol worked hard to promote and educate about bills that would advance and enhance medical practice. While it is an honor to promote this kind of legislation, what we often find is that we are called upon to protect patient and physician interests by defeating legislation that would threaten patient safety or limit a physician's ability to practice medicine. ArMA did so most notably this year by successfully thwarting an extremely serious medical threat to expand the scope of practice for advanced practice registered nurses (APRN), an effort led by national and state nurses' groups.

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Beyond the labor-intensive victory over APRN legislation, legislation which we fully expect to see again in a future session, our legislative session was marked by a number of other meaningful wins, including a very hard-fought effort by an ArMA-led health care coalition making Arizona the 13th state to adopt the Interstate Medical Licensing Compact, and the restoration of KidsCare, the state's CHIP program providing Medicaid coverage for children. This and other legislative activity played out over the course of nine months. It began with a four-month pre-session ramp up period that included the so-called "sunrise process" for the APRN practice scope expansion proposal and other less-controversial proposals.

In the 2016 legislative session, which was not nearly as brief as last year's 81 days, legislators took 117 days to finish work. But the session was marked by much less partisan bickering. Why? Mostly because of a modest budget surplus for the state, something we hadn't seen for quite some time. The ability to restore some of the money to programs that suffered previous cuts helped to assuage many lawmakers' concerns. And ultimately, they all realized that they could not get out on the reelection campaign trail as long as they remained at the Capitol. So on May 7, at 5:45 am, they adjourned the legislative session sine die.

During the session ArMA successfully worked with the Governor's Office to enact significant changes to the laws that govern prescriber compliance with the Controlled Substances Prescription Monitoring Program (CSPMP), including a future requirement that prescribers check that database before prescribing opioids and benzodiazepines in most instances. The Governor's office spearheaded an effort to streamline all health regulatory boards, and while it did not make it into enacted bill form this year, ArMA is pleased to be a part of the Administration's efforts to ensure changes do not diminish the functionality of the Arizona Medical Board.

We also worked closely with Health Chairs Representative Heather Carter and Senator Nancy Barto, as well as other committee members, on a number of meaningful pieces of legislation, including bills dealing with anatomical gifts, biological products, mental health care, opioid antagonists, and a host of other health care issues.

During the course of the 117 days this year, the Legislature worked through the following tally of bills, memorials and resolutions:

- 1247 bills introduced
- 388 bills passed
- 374 bills signed
- 14 bills vetoed
- 114 memorials & resolutions introduced
- 36 memorials & resolutions passed

During this session, not counting budget bills, we monitored over 120 bills that we believed had the potential to affect physician practices.

Simply put, none of the many legislative successes we achieved this year would have happened without the unfailing support of ArMA's leadership and our engaged members. We faced an "all hands on deck" environment for a prolonged period this session, and the outpouring of contributions of time and talent from so many ArMA members was remarkable and impactful. Support came from all parts of the state and from all physician disciplines. Our allied groups in medicine, from Arizona Osteopathic Medical Association (AOMA), to the anesthesiologists, to the surgeons, to the family practice doctors and pediatricians, to the obstetricians and gynecologists, to the emergency doctors, to the psychiatrists, and the ophthalmologists, all stepped up to assist in what was truly a physician-led team effort.

We offer a special thanks to Carol Wagner, who for the 25th straight year led our stellar Doctor of the Day program at the Legislature, and all the physicians who took time from their busy schedules to serve as Doctor of the Day. And we wish Carol, who has just retired from ArMA after so many years of faithful and inspired service, a well-deserved "Happy Retirement!" We will miss her, and will carry on Carol's work and continue our Doctor of the Day program next session and beyond.

BUDGET

We knew going into the session that the fiscal picture for the state had improved considerably since 2015, with increasing revenues leading to projections of at least a short-term surplus in the state's coffers. This led to many calls from both outside constituencies, as well as from Democrat and Republican lawmakers, for restoration of many of the previous budget cuts. Governor Ducey and Legislative Leadership, however, stressed the need for continued

prudence on the spending side, arguing that the surplus was a temporary phenomenon and tougher fiscal times lie ahead. They signaled that any spending restorations would need to be one-time in nature and not permanent.

Despite many rounds of closed-door talks between the Ducey team and House and Senate Leadership, it took most of the session before a budget emerged, causing the session to bog down at times before the final push occurred in May. After several weeks of suspense, the Legislature approved a roughly \$9.6 billion budget shortly after midnight on the morning of Wednesday, May 4.

Governor Ducey signed the entire budget package into law on Tuesday, May 10. According to the Joint Legislative Budget Committee, the budget is expected to leave the state with \$66 million in the bank by the end of next fiscal year and a \$1.5 million structural balance.

There were several key issues ArMA was focused on during budget work: ensuring that needed legislation was included to reverse the never-enacted Arizona Health Care Cost Containment System (AHCCCS) rate cut from last year, restoration of coverage for podiatry services for AHCCCS, and restoration of KidsCare. The final budget bills included necessary language to offset AHCCCS rate cuts and to restore podiatry services for AHCCCS patients.

KidsCare is Arizona's State Children's Health Insurance Program (CHIP). Before it was temporarily frozen, KidsCare provided high quality, affordable, and cost-effective health care to low income children from working families. KidsCare covers children in families with incomes from 138 percent to 200 percent of the federal poverty level, or \$27,000 - \$40,000 for a family of three. Arizona has had a temporary enrollment freeze on KidsCare for the past five years and was the only state in the country without functioning CHIP coverage. Arizona has the third highest percentage of uninsured children in the US — around 160,000 kids.

There was a huge push to include KidsCare in the budget, but in the end it was not included as part of the budget. The amendment to restore the program was offered but lacked sufficient Republican votes to be adopted. This would have been the end of the effort to restore KidsCare for the session.

However, a day after the budget package was passed, on May 5, one final huge push was made at the Legislature to give KidsCare new life. ArMA worked relentlessly with Children's Action Alliance and the Cover Kids Coalition to help

revive the issue once again. After hours of delay, debate, and numerous procedural motions and moves, the House with bipartisan support voted to amend SB 1457, adding language to lift the KidsCare freeze. Ultimately, the bill as amended passed 38-21, sending the issue back over to the Senate and resuscitating it from the dead, one more time. The following day in the Senate, a group of five Republicans joined forces with eleven Democrats to force a final floor vote on SB 1457, despite the opposition of Senate Leadership. It passed on a 16-12 vote and when it arrived on Governor Ducey's desk, he immediately signed the bill into law. Now that KidsCare coverage has been restored, approximately 30,000 - 40,000 children in Arizona are expected to enroll. Applications for KidsCare will be accepted beginning July 26, 2016 for coverage that will begin September 1, 2016.

After session, most lawmakers breathed a big sigh of relief when voters narrowly approved Proposition 123 in a special election held on May 17, authorizing the use of \$3.5 billion in funds held in the State Land Trust to fill the gaps in K-12 funding over the next ten years, thereby resolving the budget dilemma arising out of the Cave Creek K-12 funding lawsuit. The \$9.6 billion state budget that was passed had assumed passage of Prop 123. Had it failed, the entire budget would have fallen apart.

LEGISLATIVE TALLY SHEET

The remainder of the report will deal with the specific bills that ArMA monitored, supported or opposed. These bills, coupled with the budget and larger policy issues reviewed above, comprise the most significant of the more than 120 bills that ArMA followed during this legislative session. The key bills below are divided into the issue categories used by ArMA's Committee on Legislative and Governmental Affairs to establish ArMA's advocacy positions. Those 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 over 40 bills during this session, by far the most of any of the categories. The most significant of these measures are discussed below.

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SB 1096: MEDICAL RADIOLOGIC TECHNOLOGY

This enacted bill was filed by Sen. Nancy Barto for the Medical Radiologic Technology Board of Examiners, and it makes various changes affecting licensees. The minimum standards of education and training for licensees adopted by the Radiation Regulatory Agency and approved by the Board must include the types of applications of ionizing radiation for practical technologists in bone densitometry, radiation therapy technologists, mammographic technologists, nuclear medicine technologists, bone densitometry technologists, computed tomography technologists, radiologist assistants, physician assistants and any new radiologic modality technologists.

The minimum numbers of continuing education hours required for licensees are established. Training and education requirements for certification as a mammographic technologist are modified. The Board is authorized to investigate, on its own motion, any evidence that appears to show the existence of any of the causes or grounds for disciplinary action. Additionally, the statutory life of the Radiation Regulatory Agency, the Radiation Regulatory Hearing Board and the Medical Radiologic Technology Board of Examiners is extended two years to July 1, 2018, retroactive to July 1, 2016. By December 1, 2016, the Board and the Radiation Regulatory Agency are required to issue a joint report to the legislative committees of reference regarding progress on the implementation of the Auditor General's recommendations.

SB 1096 was amended to exempt PAs from certification by the Medical Radiologic Technology Board of Examiners (MRTBE). ArMA is currently working with the PA Board and will continue advocating to ensure that educational and clinical standards are reviewed and adopted that ensure PAs performing ionizing radiation are educationally prepared and clinically competent in order to ensure patient safety.

SB 1112: PHARMACISTS; SCOPE OF PRACTICE

Another enacted bill from Sen. Barto, SB 1112 came about as a compromise after a sunrise application and stakeholder meetings during the months preceding session between representatives for pharmacists and physicians. It allows pharmacists to administer influenza vaccines to a child at least three years of age, to give booster doses for the primary adolescent series as recommended by the CDC, and to administer immunizations or vaccines recommended by the CDC to a child at least 13 years of age. The pharmacist must report the vaccine administration to the

child's identified primary care physician within 48 hours, and failure to report is unprofessional conduct. It establishes a list of methods a pharmacist must use to make a reasonable effort to identify the person's primary care physician. This bill and the changes that were implemented is a solid working example of how professions can collaborate in the best interests of patients.

As a result of late-breaking developments surrounding the change in Food and Drug Administration (FDA) labeling on mifepristone, this bill was amended at the end of session to repeal previously-enacted SB 1324 (see the description of that bill under the Public Health/Public Policy section). SB 1112 now says that if a woman has taken mifepristone as part of a two-drug regimen to terminate her pregnancy, has not yet taken the second drug and consults an abortion clinic to question her decision to terminate her pregnancy, or seeks information regarding the health of her fetus or the efficacy of mifepristone alone to terminate the pregnancy, the abortion clinic staff are required to inform the woman that the use of mifepristone alone to end a pregnancy is not always effective and that she should immediately consult a physician if she would like more information. It additionally requires the Arizona Department of Health Services (ADHS) website to include information explaining the efficacy of mifepristone taken alone, without a follow-up drug as part of a two-drug regimen, to terminate a pregnancy and advising a woman to immediately contact a physician if the woman has taken only mifepristone and questions her decision to terminate her pregnancy or seeks information regarding the health of her fetus. SB 1112 removes the requirement that a woman be told both of the following for purposes of establishing voluntary and informed consent to an abortion: that it may be possible to reverse the effects of a medication abortion but time is of the essence; and information on and assistance with reversing the effects of a medication abortion is available on the ADHS website.

SB 1283: CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM

ArMA worked very closely with Sen. John Kavanagh and Governor Ducey's team to implement workable changes to the bill regarding mandated use of the Controlled Substances Prescription Monitoring Program (CSPMP), and do so under a realistic timetable. This was a platform issue for the Governor heading into this session, to help address the problems our state has been facing with opioid abuse.

ArMA worked hard with stakeholders to amend the bill in order to address physician concerns with the legislation which incorporated: including clinical discretion into the mandate; tailoring the mandate so it is not overly broad; the timeline for technology improvements and the mandate; and ensuring that functionality concerns with the system itself are addressed.

SB 1283 says that beginning the later of October 1, 2017, or 60 days after the statewide health information exchange has integrated the CSPMP data into the exchange, before prescribing an opioid analgesic or benzodiazepine controlled substance listed in schedule II-IV for a patient, a medical practitioner is required to obtain a patient utilization report regarding the patient for the preceding 12 months from the Program's central database tracking system at the beginning of each new course of treatment, and at least quarterly while that prescription remains a part of the treatment. There are exceptions for patients receiving hospice care, palliative care for a serious or chronic illness, care for cancer, a cancer-related illness or condition or dialysis treatment. The bill does not include situations where a medical practitioner will administer the controlled substance, or when the patient is receiving the controlled substance during the course of inpatient or residential treatment in a hospital, nursing care facility, assisted living facility, correctional facility or mental health facility. There is an exception for prescriptions for no more than a 10-day period for an invasive procedure or one that results in acute pain to the patient, and an exception for no more than a five-day prescription when the practitioner has reviewed the Program's database for that patient within the last 30 days and the system shows that no other prescriber has prescribed a controlled substance in the preceding 30-day period. Lastly, there is an exception for when a practitioner is prescribing the controlled substance for no more than a 10-day period for a patient who has suffered an acute injury or a medical or dental disease process (other than back pain) that is diagnosed in an emergency department setting and that results in acute pain to the patient. The Board of Pharmacy is required to contract with a third party to conduct an analysis of the Program and complete a report on specified information by January 1, 2017. By October 1, 2016, and quarterly for the following four years, the Board must do additional reports. ArMA will be providing all members with resources to assist in navigating the requirements of this legislation.

SB 1443: HEALTH PROFESSION REGULATORY BOARDS

Senator Barto sponsored this bill to make further changes to the laws governing several professional regulatory boards, including the Arizona Medical Board and Arizona Board of Osteopathic Examiners in Medicine and Surgery. The bill specified that a member of a board would have been ineligible for reappointment to that board once the person had been appointed for two full terms. A person would have been allowed to be reappointed to a board once the person had not been on the board for a time period of at least one full term. Health profession regulatory boards would have been required to audio or video record all open meetings of the board and to maintain the recordings for three years. Each board would have been required to publish non-disciplinary actions taken against licensees online. The bill passed the Legislature handily but was later vetoed by Governor Ducey. In his veto message, the Governor stated that he does not believe the best way to address needed reform for regulatory boards is small, isolated changes which do not address the root of the problem. He also expressed a desire for future legislation that aggressively addresses reforms of boards and commissions.

SB 1473: REGISTERED NURSES; ADVANCE PRACTICE

This one was truly a "battle royal," pitting doctors against nurses in a showdown over an aggressive APRN scope of practice expansion proposal effort, led by the Arizona Nurses Association (AzNA) and forcefully driven by the Arizona Association of Nurse Anesthetists (AZANA). Those groups collectively filed a major "sunrise" application back in September 2015 seeking four things: one, to end the requirement of "collaboration" by nurse practitioners (NPs) and certified nurse midwives (CNMs); two, to allow certified registered nurse anesthetists (CRNAs) to both prescribe/dispense drugs (including opioids) and to eliminate the MD/DO/DDS/DPM "direction and presence" requirement in their scope of practice statute; three, to give unlimited prescribing privileges to Clinical Nurse Specialists (CNS); and fourth, to change the process for all APRNs from certification to full licensure.

After emerging from the sunrise hearing in December on a 5-4 vote, the nurses' groups went forward with a major legislative and PR effort, in the form of SB 1473 sponsored by Senate Health Chair, Sen. Nancy Barto. ArMA and its

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allied medical groups organized a coalition of opponents, assembled a top-notch lobbying and PR team, and recruited an esteemed cadre of physician and patient spokespersons to tell the story of why these proposals were not compatible with good patient care, and to the contrary, could put patients at risk. That led to an epic showdown on February 10, when the two sides and their respective champions battled it out in a five-hour hearing before Sen. Barto's Health and Human Services Committee.

Our diverse and professional team provided thoughtful, comprehensive medical testimony demonstrating why this bill was not safe for patient care. When the dust finally settled, the bill was held from a vote by Sen. Barto, who admitted on the record that she lacked the requisite four yes votes to get it out of committee. Despite a number of efforts to resurrect SB 1473 by offering a variety of watered-down (but still dangerous) amended versions, our solid contingent of no votes on the committee did not waver and the clock began to run out.

On March 11 there was a major turning point in this fight – ArMA was able to formalize an agreement with the AzNA and its component groups. We agreed to let the nurses run a striker bill with language for a clearer definition of “collaboration” required of nurse practitioners and Certified Nurse Midwives, but the striker did **not** include any other parts of their bill. That meant the contentious CRNA components, the clinical nurse specialist scope expansion, and the move to go from certification to licensure for all APRNs were all now dead for this session. ArMA agreed to take a neutral position on the new striker bill and to participate in stakeholder meeting after session regarding the current CRNA statutes and the implications of existing requirements in the context of healthcare delivery in Arizona. No commitments were made as far as legislation in future sessions. Ultimately, the nurses' groups decided to drop even that striker bill for the session. We don't think this ends the issue, by any stretch of the imagination, and we are fully expecting to see the legislation resurface again soon.

Legislative victories, while sweet, are by nature not long-lived. Nevertheless, considering the quality of the nurses' position and the momentum they had going into the session, it was one of the biggest legislative wins for ArMA in a very long time.

HB 2035: COSMETOLOGY; OMNIBUS

This enacted bill was sponsored by House Speaker David Gowan, and it makes various changes relating to the Board of Cosmetology. Specifically of interest to ArMA, the bill establishes a six-member Cosmetic Lasers Study Committee to study the regulatory framework and monitoring process for the use of cosmetic lasers and report by December 31, 2016. As initially introduced, the bill would have removed the direct physician supervision requirement for the use of cosmetic lasers, but thanks to relentless pressure from physicians, that change was deleted from the bill on the House floor. We will continue to work to make sure physician concerns regarding patient safety are heard as part of the committee process.

HB 2225: RADIOLOGIC TECHNOLOGY; OUT-OF-STATE LICENSED PRACTITIONERS

Sponsored by Rep. Lawrence, HB 2225 authorizes a certified radiologic technologist to use ionizing radiation on human beings for diagnostic purposes only while operating in each particular case at the direction of a “licensed practitioner” (defined elsewhere in statute) who is licensed in any other state, territory or district of the U.S., in addition to a practitioner licensed in Arizona.

HB 2501: HEALTH REGULATORY BOARDS; TRANSFER; DHS

Governor Ducey announced early in the session his desire to begin a process of health regulatory board streamlining and modernization, and HB 2501 was the vehicle chosen to move forward in this effort. Rep. Carter, as Health Chair, stepped forward to sponsor this bill and give the boards and professionals impacted a fair opportunity to have input in this process. She and Governor Ducey's health advisor, Christina Corieri, stayed true to that commitment by holding regular stakeholder meetings as the session went on. ArMA was an active participant in these meetings. The bill called for moving specified regulatory boards to office space at ADHS, a study relating to moving the groups to ADHS, an Auditor General study to evaluate the structure and operations of the health boards and recommendations regarding board processes that can be streamlined to benefit licensees and be more uniform among the boards while protecting public health and safety. HB 2501 passed the House rather easily but then got bogged down in the Senate due to opposition, and ultimately the Ducey Administration decided to abandon the effort for 2016. This subject is likely to be revisited in 2017, and ArMA plans to be actively engaged again.

HB 2502: MEDICAL LICENSURE COMPACT

ArMA led a coalition of Arizona's health and business organization in support of HB 2502, sponsored by Rep. Heather Carter. This bill allows Arizona to safely and effectively license physicians at the speed of business. It creates a new pathway to expedite the licensing of physicians seeking to practice medicine in multiple states, enhance license portability and improve access, efficiency and quality of care for patients. The Compact will preserve Arizona's ability to maintain control over medical licensure, discipline, and patient protection.

HB 2502's enactment of the Interstate Medical Licensure Compact makes Arizona the 13th state to do so, allowing a streamlined process for physicians to become licensed in multiple states if they so choose. Like the other compacts do, this one gives authority to an Interstate Commission and establishes Commission powers and duties to implement the Compact.

In addition, beginning July 1, 2017, the bill allows the Arizona Medical Board (AMB) and the Arizona Board of Osteopathic Examiners in Medicine and Surgery (DO Board) to issue a temporary license to allow a physician who is not an Arizona licensee to practice in Arizona for a total of up to 250 consecutive days if the physician holds an active and unrestricted license to practice medicine in a U.S. state or territory, has never had a license suspended or revoked, is not the subject of an unresolved complaint, has applied for an Arizona license, and has paid any applicable fees. The temporary license cannot be renewed or extended.

The AMB and DO Board are prohibited from requiring an applicant for licensure to hold or maintain a "specialty certification" as a condition of licensure in Arizona. Additionally, employers are prohibited from requiring a physician to seek licensure through the Compact as a condition of initial or continued employment. The Boards are required to create a proposal for the expedited licensure of a physician who is licensed in at least one other state, whose license is in good standing and who chooses not to be licensed through the Compact, and are required to submit a report to the Legislature by December 1, 2017.

Governor Ducey signed HB 2502 into law on May 11, stating that "[t]he Interstate Medical Licensure Compact increases Arizona's ability to attract top quality doctors to the state

by dramatically decreasing licensing time, and lets the world's most talented physicians know that Arizona is open for business."

INSURANCE

It was a remarkably light year in terms of insurance-related legislation. ArMA followed less than 20 bills this session in the Insurance category, most of which did not advance. The two described here are the more important ones:

SB 1363: INSURANCE COVERAGE; TELEMEDICINE

An ArMA-backed bill by telemedicine champion Sen. Gail Griffin, SB 1363 makes further improvements to Arizona's insurance parity law from 2013. This bill requires policies or contracts executed or renewed on or after January 1, 2018 to provide coverage for health care services for trauma, burn, cardiology, infectious diseases, mental health disorders, neurologic diseases, dermatology and pulmonology that are provided through "telemedicine" if the service would be covered were it provided through in-person consultation and if the service is provided to a subscriber receiving the service anywhere in Arizona, instead of only in a rural region of Arizona (as current law states). The bill was signed by Governor Ducey on May 17th and has a delayed effective date of January 1, 2018.

HB 2306: HEALTHCARE PROVIDERS; FAMILY MEMBERS; COVERAGE

Sponsored by Rep. Cobb, HB 2306 requires all health and disability insurance contracts and policies issued, delivered or renewed on or after July 1, 2017 in Arizona to provide coverage for lawful health care services provided by a health care provider to a subscriber regardless of the familial relationship of the provider to the subscriber if that service would be covered were it provided to a person who is not related to the health care provider.

HB 2264: INSURANCE; PRESCRIPTION EYE DROPS; REFILLS

A helpful bill for patients (especially older ones), HB 2264 as enacted resulted from compromise discussions between patient advocates and health insurers, including Blue Cross Blue Shield of Arizona (BCBSAZ). It addresses the problem of patients who run out of prescription eye drops early (often due to inadvertent spillage) by calling for early refills. Beginning January 1, 2018, health insurance policies that provide

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coverage for prescription eye drops to treat glaucoma or ocular hypertension are prohibited from denying coverage for a refill of a prescription for those eye drops if the subscriber requests the refill within specified time periods, the prescription eye drops are a covered benefit, the prescribing provider indicates on the original prescription that additional quantities are needed, and the refill requested does not exceed the number of additional quantities prescribed.

TORT REFORM/LIABILITY

There were no bills enacted under the category of Tort Reform/Liability, ArMA followed a handful of bills, but none of them advanced.

PUBLIC HEALTH/PUBLIC POLICY

During this session there were over 40 bills in the Public Health/Public Policy category that ArMA followed. Of those, the following are the most important ones:

HB 2061: MEDICAL MARIJUANA; PREGNANCY; SIGNAGE

Sponsored by Rep. Townsend, HB 2061 mandates the ADHS to adopt rules that require each medical marijuana dispensary to display signs warning pregnant women about the potential dangers to fetuses caused by smoking or ingesting marijuana during pregnancy or to infants while breastfeeding and the risk of being reported to the Department of Child Safety (DCS) during pregnancy or at the birth of the child by mandated reporters. The rules also require each certifying physician to attest that the physician has provided information to each qualifying female patient that warns about the same dangers and risks.

SB 1169: MENTAL HEALTH POWER OF ATTORNEY

Following a productive stakeholders' process on this bill and SB 1442, Sen. Nancy Barto introduced this legislation to make several changes to the laws on the mental health care power of attorney. Under SB 1169, the physician that determines that a person lacks the ability to give informed consent may be a specialist in neurology, in addition to psychiatry or a psychologist. If a patient admitted to or being treated in an outpatient psychiatric facility under the authority of an agent pursuant to a mental health care power of attorney manifests the desire to disqualify an agent or revoke the power of attorney and requests in writing to be discharged from the facility, the facility is required to either discharge the patient within 48 hours or to initiate proceedings for court ordered evaluation or treatment on

the following court day. Some exceptions are stated. Except during times when the principal has been found to be incapable, the principal under a mental health care power of attorney may disqualify an agent or revoke all or any portion of the power of attorney.

SB 1324: ABORTION CLINICS; MEDICATION ABORTIONS

This highly controversial bill was another example of politics interfering with the safe practice of medicine, of placing abortion-focused policy above sound medical science. Thankfully, as a result of some very timely FDA action, this bill was quietly done away with. SB 1324, filed by Sen. Kimberly Yee, mandated that ADHS rules relating to the medication abortion procedure require that any medication, drug or other substance used to induce or cause a medication abortion be administered in compliance with the mifepristone label protocol approved by the FDA as of December 31, 2015. This meant following an outdated and medically discredited label and prescribing a three times higher dose of a medication than is currently being prescribed/recommended by evidence-based medicine. ArMA, the Arizona Chapter of the American Congress of Obstetricians and Gynecologists (ACOG), and other medical groups had been on record saying mandating use of the old FDA label was bad medical science and placed physicians in a dilemma of either following the law or following their medical oath. Nevertheless, the bill was signed by Governor Ducey on March 30. However, the FDA thereafter updated the mifepristone label bringing its recommended usage in line with the medical best practices that have been used by physicians for years. As a result, SB 1324 was later repealed through an amendment to SB 1112 (discussed under the *Regulatory Boards/Regulations* section above).

SB 1442: MENTAL HEALTH SERVICES; INFO DISCLOSURE

The second of two mental health focused bills by Sen. Barto, SB 1442 modifies the requirements for a health care provider or entity to disclose confidential health care records to allow the disclosure to relatives, close personal friends or any other person identified by the patient as otherwise authorized or required by state or federal law. If the patient is present or otherwise available and has the capacity to make health care decisions, the health care entity is permitted to disclose the information if the patient agrees verbally or in writing, the patient is given an opportunity to object and does not object, or the entity reasonably infers from the circumstances that the patient does not object. If the

patient is not present or the opportunity to agree or object to the disclosure cannot practicably be provided, the entity may disclose the information if the entity determines that the disclosure is in the best interests of the patient. Factors a provider or entity must consider in determining whether the release of information is in the best interest of the patient are specified in the bill. Information disclosed under these provisions can only include information that is directly relevant to the person's involvement with the patient's health care or payment related to the patient's health care. A health care entity is required to keep a record of the name and contact information of any person to whom any patient information is released.

SB 1445: HEALTH CARE SERVICES; PATIENT EDUCATION

SB 1445 sponsored by Sen. Barto, forbids the state, state agencies, political subdivisions and private entities contracted with a health profession regulatory board from "punishing" (as defined) a health professional, directly or indirectly, for making a patient aware of or educating or advising a patient about lawful health care services for which there is a reasonable basis, including the "off-label use" (as defined) of health care services or health care-related research or data. Unless an entity has a sincerely held religious or moral belief, the entity is prohibited from restricting a health professional who is an employee of or affiliated or contracted with the entity for making a patient aware of or educating or advising a patient about lawful health care services, including the off-label use of health care services or health care-related research or data.

HB 2265: EPINEPHRINE AUTO-INJECTORS

Rep. Regina Cobb had success this time around (her effort last session stalled out), in terms of passing a law to allow health care practitioners to prescribe epinephrine auto-injectors in the name of an "authorized entity" (defined as any entity or organization other than a school at which allergens capable of causing anaphylaxis may be present). Authorized entities are permitted to acquire and stock a supply of epinephrine auto-injectors and to designate employees or agents who are trained to be responsible for the injectors. Trained employees or agents are authorized to provide or administer an epinephrine auto-injector to any individual they believe in good faith is experiencing anaphylaxis.

HB 2307: ANATOMICAL GIFTS; PROCUREMENT ORGANIZATIONS; LICENSURE

Sponsored by Rep. Cobb, HB 2307 sets up a new regulatory scheme under ADHS for licensing anatomical gift procurement organizations. Requirements for documentation and record-keeping are set forth, and ADHS is given the right to take various enforcement actions against a licensee in violation of statutory requirements and related rules it adopts. ADHS is required to recognize organizations accredited by a nationally recognized accrediting agency, and accredited organizations are exempt from certain statutory requirements. Hospital-affiliated entities are also exempted from this law.

HB 2310: BIOLOGICAL PRODUCTS; PRESCRIPTION ORDERS

Another bill Sponsored by Rep. Cobb, HB 2310 addresses the cutting edge topic of interchangeable biological products. A pharmacist is only permitted to substitute for a prescribed biological product if a list of specified conditions is met, including that the FDA has determined the substituted product to be an "interchangeable biological product" (as defined) and that the prescribing physician does not designate that substitution is prohibited. Documentation of the substitution and electronic notification to the prescribing physician is required.

HB 2355: OPIOID ANTAGONISTS; PRESCRIPTION; DISPENSING; ADMINISTRATION

One of the great "sleeper" bills this session – one that undoubtedly will save the lives of Arizonans – is Rep. Carter's HB 2355. Under this landmark bill, a licensed physician, nurse practitioner or other health professional who has prescribing authority and is acting within the scope of practice is authorized to prescribe or dispense naloxone hydrochloride or any other opioid antagonist that is approved by the FDA to a person who is at risk of experiencing an opioid-related overdose or a family member or community organization that may be in a position to assist that person.

Without a prescription, pharmacists will be authorized to dispense, according to Board of Pharmacy protocols, naloxone hydrochloride or any other approved opioid antagonist to a person who is at risk of experiencing an opioid-related overdose or to a family member or community member who is in a position to assist that person.

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Physicians, pharmacists and persons who take these actions with reasonable care and in good faith are immune from specified liability, except in cases of wanton or willful neglect.

HB 2599: AHCCCS; PROVIDER PARTICIPATION; EXCLUSIONS

Rep. Justin Olson filed this enacted bill to require AHCCCS to exclude from participation in the program any individual or entity that meets any basis for mandatory exclusion described in federal law. The AHCCCS Administration, in its sole discretion, is permitted to exclude from participation any individual or entity that has met any basis for permissive exclusion described in federal law or committed a list of prohibited acts.

HEALTH CARE INSTITUTION ISSUES

In the Health Care Institution Issues category, ArMA followed a dozen bills this session, one of which is discussed below.

SB 1327: HOSPITALS; DIETICIANS; PRESCRIPTIONS; DIET ORDERS

A bill sponsored by Sen. Barto at the request of Arizona Hospital and Healthcare Association (AzHHA), SB 1327 permits a licensed hospital to allow a "registered dietitian" or other "qualified nutrition professional" (both defined) to order diets, enteral feeding, nutritional supplementation or parenteral nutrition if authorized by medical staff pursuant to federal law and if the hospital's written policies and procedures allow it and the hospital has written policies and procedures that address the hospital's response to adverse events, if any, that arise as a result of orders issued by a registered dietitian or other qualified nutrition professional. For the purpose of Board of Pharmacy regulations, the definition of "prescription order" is expanded to include "enteral feeding," "nutritional supplementation" and "parenteral nutrition" (all defined) that is initiated by a registered dietitian or other qualified nutrition professional in a hospital.

CONCLUSION

Once again, ArMA got the job done through its legislative advocacy, securing victories on key pieces of legislation in the face of significant adversity. And ArMA did so by holding the line against ideas that would be contrary to the best interests of both patients and physicians. We showed to all that it is the physician who is still watching out for the patient and who is the head of the medical care team.

Our front line ArMA team of Pele Fisher (VP of Policy & Political Affairs) and Steve Barclay (our lawyer/lobbyist) proved to be an extremely effective and resilient duo. They accomplished victories which many thought not possible. The involvement of many ArMA members, in a way that allowed us to have the direct physician voice when it was needed most, was a critical reason for that success. The information and support provided by the American Medical Association (AMA) Scope of Practice Partnership and the American Society of Anesthesia (ASA) on the APRN legislation allowed us to proceed with information and expertise otherwise unavailable. The AMA support allowed us to institute the inauguration of our grass-roots and electronic response that will now be an integral part of our advocacy program.

Gratifying as they may be, we understand only too well the fleeting nature of the legislative victories we have achieved. Each new legislative session starts with a fresh slate, and we are faced with new threats and opportunities.

We enter this "off-season" with much to attend to – a whole new crop of legislative candidates to get to know, as well as planning our defensive and offensive strategies for the 2017 session (which will be here in less than six months). New (or resurrected) threats will emerge – proposals to expand practice scopes being just one example – and we must continually take time to educate our lawmakers and staff about emerging health care policy issues. One thing all ArMA members can count on: we will never lower our guard; we will always stand ready to defend the practice of sound medicine.

In closing, we wish to acknowledge and sincerely thank those legislators who have been absolute stalwarts in terms of protecting the interests of quality health care for all Arizonans. Our special thanks goes out to the following health care heroes: Representative Heather Carter, House Health Committee Chair; Representative Eric Meyer, House Minority Leader; Senator Katie Hobbs, Senate Minority Leader; Representative Regina Cobb, Vice Chair of House Health; Senator Debbie Lesko; Senator David Bradley; Representative Kate Brophy-McGee, and Representative Randall Friese, for their willingness to stand strongly for us on the proactive and defensive issues we fought so hard for this year. ■