

ARIZONA MEDICAL ASSOCIATION

2015

LEGISLATIVE  
REPORT

MISSION  
ACCOMPLISHED

ArMA's Advocacy  
in a Historically Short,  
yet Action-Packed  
Legislative Session

## INTRODUCTION

The shortest regular session in modern state history – a mere 81 days – is the way many will remember the first session of Governor Doug Ducey’s administration; but ArMA will also take pride in stating that, as far as results are concerned, it was another outstanding one for Arizona’s physicians and their patients. ArMA was hugely successful in this session in terms of advancing much-needed legislation and staving off bills that would hurt physicians and patients. While in global terms the Republican-controlled Legislature cannot be considered “pro-health care,” from a policy standpoint, no serious efforts were made to undo the AHCCCS expansion proposal enacted in 2013 (there is, however, at the time of this writing, an Arizona Supreme Court case pending that could jeopardize it).

On the positive side of the ledger, we helped shepherd through the process two vital bills to help eliminate the licensing backlog and restore proper function at the Arizona Medical Board (AMB). As part of those AMB reforms, physicians will no longer have to undergo fingerprinting and background checks when they renew their licenses. ArMA was also thrilled that two physician members, Gary Figge, M.D., and Lois Krahn, M.D., were appointed by Governor Ducey to the AMB and unanimously confirmed by the AZ Senate in the final days of the session.

ArMA also successfully advanced legislation to insulate physicians from harassment through licensing board complaints for merely performing independent medical exams (IMEs) in workers’ comp cases. We worked closely with other medical groups to make improvements in the laws that govern prescriber compliance with the state’s controlled substances prescription monitoring program (CSPMP). And we aided in the passage of a bill to help better protect from liability physicians groups who perform peer review activities.

As usual, scope of practice issues were front and center again – both leading up to and during this legislative session. ArMA was successful in stopping all of them, including two overreaching proposals that were put forward during the “sunrise” process last December before the legislative

Committee of Reference: an effort by the naturopaths to be allowed to prescribe Schedule II drugs and an effort by the Arizona Pharmacy Association to allow pharmacists to immunize children ages 6-17 without a physician’s prescription. During session, ArMA soundly defeated SB 1040 in the Senate Health & Human Services Committee, a bill by the chiropractors to add prescribing rights to their scope of practice while bypassing the state’s sunrise process.

And, in the wee hours of Sine Die dawn, ArMA stood tall in stopping an ill-conceived Senate Resolution that would have taken a position of opposition by the Legislature as a whole, against future consideration of the Interstate Physician Licensure Compact – an important model act that’s been introduced in seventeen states during this past year and already enacted in six of them.

By the time the session skidded to a stop shortly before dawn on April 3, the 81st day, the Legislature had considered the following tally of bills, memorials and resolutions:

- 1163 bills introduced
- 344 bills passed
- 89 memorials & resolutions introduced
- 36 memorials & resolutions passed

Of the 344 bills that reached Governor Ducey, 320 were signed and, unless specifically noted otherwise, they will all go into effect July 3, 2015. Governor Ducey only used his veto pen on 20 bills, a modest number by modern standards. During this session, ArMA followed 118 bills (not including the 13 budget bills) which had the potential of positively or negatively affecting physician practices.

Our success would simply not be possible without the support, invaluable insights and feedback from those ArMA members who stepped forward to support our legislative efforts and have a meaningful impact on their profession. We sincerely thank the 48 physicians who took time from their busy schedules to serve as Doctors of the Day (DoD) at the State Capitol. ArMA’s DoD program continues year-after-year to be meaningful and exciting to the legislators and their staff as well as the physician volunteers. Rest assured we will continue to advance this hallmark program on your behalf as effectively as possible.

## BUDGET

We all knew going into this session that it would be a tough one on the budget side, considering that Arizona's recovery has been a weak one and the state faced a significant budget shortfall. What we didn't expect was such harmony and coordinated activity between the Governor's Office and the Senate and House GOP leadership.

In an effective power move led by Senate President Andy Biggs, the GOP leadership team at the Arizona Legislature rammed a budget through between weeks eight and nine that carried by just enough votes to land it on Governor Doug Ducey's desk the Monday following a grueling, mandatory work-weekend. The process began with the introduction of 13 identical budget bills in both chambers. Things moved relatively quickly and after a lot of arm twisting by the Leadership and the Governor, the Legislature pulled a rare "all-nighter" on Friday, March 6th and approved the austere \$9.1 billion budget.

Moderate Republican lawmakers tried to bargain for reduced cuts, but in the end only managed to secure some slight reductions, along with a series of minor policy adjustments in the budget proposal. The proposed \$104 million cut to state universities, the largest sticking point for many lawmakers, was only reduced to \$99 million. Likewise, the holdouts were unable to lessen the five percent cut to provider rates under the Arizona Health Care Cost Containment System (AHCCCS) program, a cut that AHCCCS Director Tom Betlach (who briefed ArMA's Board in April) was to decide how best to mete out. Republican Rep. Heather Carter, along with almost everyone in the Democrat caucuses (led by Rep. Eric Meyer, M.D., and Sen. Katie Hobbs) stood firm and were among those who voted "no" on the health-related budget cuts, to no avail. ArMA made it clear to all that these cuts will put availability of physicians in jeopardy as payment for care may now be below cost.

Initially, the cut was delayed to take effect October 1. During the public comment period, ArMA and others shared our strong concerns about the cuts, and we now know these were given serious consideration by the Governor, AHCCCS leadership, and the Legislature. On June

5, AHCCCS announced that the provider rate cuts had been cancelled. The leadership and resourcefulness of the Governor's staff and AHCCCS leadership led to identification of unused funds and eliminated any AHCCCS budget cuts for the next two years.

Another interesting piece of the health-related budget bill was a provision that tries to copycat states like Indiana, which recently received a waiver from CMS to allow cost-sharing mechanisms in the state's Medicaid program in return for agreeing to expand the program. The budget bill provision directs AHCCCS to seek approval from CMS for new cost-sharing mechanisms which differ slightly for the expansion population and the traditional Medicaid population. It ties in with SB1092 (see below), sponsored by Sen. Nancy Barto. ArMA is participating in a business-based coalition to provide input to the Ducey administration on realistic CMS waiver ideas.

In numerous floor speeches, Republicans boasted that the budget was fiscally responsible, balanced and set the state on a path to be fiscally balanced by FY18. However, this GOP-backed budget may be obliterated if the Legislature loses its appeal in the Cave Creek K-12 funding lawsuit later this year.

Lastly, although ArMA and others continue to work to develop legislative awareness of the importance of GME funding, there was no opportunity, given the bad fiscal climate, to restore that funding and there likely will not be until the state's economy is considerably stronger.

## LEGISLATIVE TALLY SHEET

The rest of our 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 118 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 35 bills during this session. The most significant of these measures are discussed below.*

### ■ SB1032: AHCCCS CONTRACTORS; PRESCRIPTION MONITORING

Sen. Kelli Ward sponsored this bill which requires AHCCCS contractors to intervene if an AHCCCS member has 10 or more prescriptions for controlled substances within a 3-month period and also requires them 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 used. AHCCCS contractors are further required to direct cases involving excessive controlled substance use to the system medical director for review. On March 23rd, the bill was signed into law by Governor Ducey. ArMA's position on the bill was General Non-Support.

### ■ SB1040: CHIROPRACTIC; LIMITED PHARMACOLOGY CERTIFICATION; REQS

Sponsored by Senate Health Chair Nancy Barto, this scope of practice expansion bill would have authorized the Board of Chiropractic Examiners to certify chiropractors to prescribe prescription-strength dosages of ibuprofen, naproxen, methocarbamol and cyclobenzaprine upon documentation of successful completion of an unspecified number of hours (later amended to 75 hours) of study in pharmacology at an accredited chiropractic college; documentation of successful completion of a rotation that included an unspecified number of hours (later amended to 300 hours) under the supervision of a licensed M.D. or D.O.; and documentation of having passed a Board-approved pharmacology examination. ArMA vigorously opposed this bill, as did Arizona Osteopathic Medical Association (AOMA) and other provider groups, both because it bypassed the state's sunrise process and because it would endanger public health and safety. We succeeded in stopping the bill in the Senate Health and Human Services Committee at a showdown hearing on February 4th and the bill never resurfaced. ArMA's position on the bill was Active Non-Support.

### ■ SB1149: ARIZONA MEDICAL BOARD; FINGERPRINTING; DISCLOSURE

### ■ HB2521: ARIZONA MEDICAL BOARD; FINGERPRINTING; DISCLOSURE

Governor Ducey wasted little time in putting his signature on SB1149, only the second bill to reach him in the session. These identical bills, simultaneously introduced by Senate Health Vice Chair Kelli Ward (a D.O.) and House Health Chair Heather Carter to expedite passage, were a big priority for ArMA because they were crucial to clearing the physician licensing backlog at the AMB which had affected many practices' ability to bring on new physician hires and stymied the license renewals of current AZ doctors. As enacted, SB1149 does three things: (1) rectifies the interpretation problems with the fingerprinting and criminal background check requirements signed into law last session; (2) retroactively removes the requirement for fingerprinting of physicians at the time of license renewal (the fingerprinting requirement will only apply to new license applicants); and, (3) requires the AMB to refund fees collected from physicians for background checks during their license renewals. ArMA's position on both versions of the bill was Active Support.

### ■ SB1257: MEDICAL LICENSURE; STATE PROGRAMS; PROHIBITION

Another bill by Sen. Ward, SB1257 would have forbidden the AMB and Arizona Board of Osteopathic Examiners 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 would have been 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. This bill passed the Senate but when it reached the House, it became the vehicle to move the behavioral health program from Arizona Department of Health Services (ADHS) to AHCCCS (see below under the Public Health/Public Policy category). ArMA's position on the original content of this bill was Active Study.

**■ SB1258: MEDICAL BOARD; AFFILIATION VERIFICATION; RULEMAKING**

Sponsored by Senator Ward, this bill, which calls for expedited rulemaking, requires the Executive Director of the AMB 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 license applicant is employed by a hospital or medical group or organization, the AMB is required to accept the verification or affiliations or employment from the applicant's employer. Further, the Board is required to issue a Request For Information for the sole purpose of seeking information about the availability in the commercial marketplace of materials or services to outsource any or all of the credentialing or verification process relating to licensure; but the bill does not require the Board to outsource any or all of the credentialing or verification process relating to licensure. The bill passed and was signed by the Governor. ArMA's position on this bill was Active Study.

**■ SB1370: CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROGRAM**

ArMA worked closely with sponsor Sen. John Kavanaugh on this bill to make improvements to prescriber compliance with the controlled substance prescription monitoring program (CSPMP). ArMA supported this bill after working out acceptable language through a productive stakeholders' process with the senator. As enacted, the bill encourages physician compliance with the CSPMP rather than imposing another burdensome government mandate on them. The bill was signed by Governor Ducey on March 23rd. ArMA's position on the final bill was General Support.

**■ SCR1003: INTERSTATE MEDICAL LICENSURE COMPACT**

Sponsored by Senator Ward, this Senate Concurrent Resolution called for the members of the Legislature to oppose any participation in the Federation of State Medical Boards' (FSMB's) Interstate Physician Licensure Compact. Interestingly, this SCR was a preemptive strike against the Compact, which has yet to be introduced at our Legislature although it has been well-received in many other states (introduced in 17 states, enacted in 6 so far).

The Compact is a model bill being advanced by the FSMB as a voluntary, optional pathway for physicians to gain multistate licenses and avoid the cost and hassle of applying state-by-state. Senator Ward saw it as a threat to state sovereignty, but fortunately most House members saw the issue far differently and they rejected the Resolution by a 16-40 floor vote. ArMA believes the Compact should be introduced and favorably considered in the coming legislative session. ArMA's position was General Non-Support.

**INSURANCE**

*ArMA followed 21 bills this session in the Insurance category. Of those, the eight described here are the most important ones:*

**■ SB1092: AHCCCS; ANNUAL WAIVER SUBMITTALS****■ HB2075: AHCCCS; ANNUAL WAIVER SUBMITTALS**

Pursuant to this bill brought forward by Sen. Barto (and by Rep. Warren Petersen), by March 30 of each year, the AHCCCS Director is required to apply to CMS for waivers or amendments to the current section 1115 waiver to allow Arizona to institute a work requirement for all "able-bodied" "adults" (both defined) 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 cost-sharing requirements 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. SB1092 was signed by the Governor. ArMA's position was General Non-Support.

**■ SB1189: HEALTH INSURANCE; INTERSTATE PURCHASE**

Sponsored by Senator Ward, SB1189 was yet another GOP attempt at allowing foreign insurers that issue policies and hold a certificate of authority in another state to issue health insurance in Arizona. AZ residents would be permitted to purchase such a policy, if the insurer registers with and provides specified information to the Department of Insurance (DOI). Any policy issued under this authorization would have to meet the benefit requirements

of other policies issued in the state where the insurer holds a certificate of authority. Circumstances under which the DOI may revoke an insurer's registration were specified. The bill passed the Senate on party lines, but it died in the House where it was used as a vehicle for another unrelated issue. ArMA's position was Active Study.

■ **SB1241: AHCCCS; CONTRACTORS; PROVIDERS**

This bill by Sen. Barto would have prohibited the AHCCCS Director 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. It arose out of a dispute with an AHCCCS contractor in Tucson that had eliminated its workforce and instead went to all independent contracted workers, in a cost-savings move. But AHCCCS said this wasn't allowed under CMS rules. The bill ultimately stalled and was used as a vehicle for an unrelated subject. ArMA's position on the initial language was Active Study.

■ **SB1288: PRESCRIPTION DRUG COVERAGE; MEDICATION SYNCHRONIZATION**

Sen. Kimberly Yee sponsored this bill for the pharmacy association to require health insurance contracts issued or renewed on or after January 1, 2016, that provide coverage for prescription drugs to 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. The health insurer must 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. This bill, which the Governor signed on April 1st, was worked out through a stakeholder's process with Senator Yee. ArMA's position on the bill was Active Study.

■ **SB1297: PSYCHOTROPIC DRUGS; FOSTER CHILDREN; REPORT**

Under this bill by Sen. Debbie Lesko of Peoria, by August 31 of every odd numbered year, the Department of Health Services, the Department of Child Safety and

the AHCCCS Administration would have been required to prepare a report that compares the prescription rate of "psychotropic medication" (defined) prescribed to foster children who receive services from AHCCCS with the prescription rate of psychotropic medications prescribed to non-foster children who receive AHCCCS services. Information that must be included in the report was specified. The report was to 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. While SB1297 cleared the Senate easily, it died in committee in the House. ArMA's position on the bill was General Non-Support.

■ **HB2373: AHCCCS; ORTHOTICS**

Pursuant to this bill by Rep. Kate Brophy-McGee of Phoenix, the list of medically necessary health and medical services that AHCCCS contractors are required to provide is expanded to include orthotics ordered by a physician or primary care practitioner if specified conditions are met, including that the orthotic is less expensive than all other treatment options. The AHCCCS Administration is required to submit an application to the Centers for Medicare and Medicaid Services for approval of orthotic services. Governor Ducey approved the bill on April 10th. ArMA's position on the bill was General Support.

■ **HB2417: DIRECT PAYMENTS; DEDUCTIBLES**

■ **SB1284: DIRECT PAYMENTS; PROVIDERS; FACILITIES; DEDUCTIBLE**

A compromise hammered out between Senator Barto and the health insurers (after battling over SB1284), HB2417 mandates that when a health insurance enrollee pays the direct pay price to an out-of-network health care provider or facility for a lawful health care service that is covered under the enrollee's health care plan, the health insurer must apply the amount paid by the enrollee first to his/her in-network deductible, with any remaining monies being applied to his/her out-of-network deductible, if applicable. The amount applied to the in-network deductible is to be either (1) the amount paid directly by the enrollee, or (2) the insurer's highest in-network contracted rate in Arizona for the service or services, whichever is lower.

If an enrollee is enrolled in a high deductible plan that qualifies the enrollee for a health savings account (HSA), the insurer is not liable if the enrollee submits a claim that jeopardizes the enrollee's status as an individual eligible for favorable tax treatment of the HSA. The bill does not create any private right or cause of action for or on behalf of any person against the health insurer. There is a delayed effective date of January 1, 2017, and the bill only applies to policies, contracts or plans that are issued or renewed beginning on that date. ArMA's position on the bill was General Non-Support.

## **TORT REFORM/LIABILITY**

*Under the category of Tort Reform/Liability, ArMA followed two bills, both of which are discussed here.*

### ■ **SB1290: INDEPENDENT MEDICAL EXAMS; BOARD COMPLAINTS**

This is an important bill which ArMA successfully lobbied through the process, with help from Copper Point Mutual and other workers' comp insurers. ArMA members Carol Pears, M.D., and Mike Powers, M.D., provided invaluable first-hand testimonials to legislators as the bill advanced, explaining how harmful it can be to a physician to be subject to a groundless complaint for unprofessional conduct merely based on a disagreement with the findings and opinions expressed by the physician in an independent medical examination (IME) in a workers' comp case. As a result of this bill, IME-related complaints will no longer be acted on by the AMB, Osteopathic Board or Podiatric Board. ArMA's position on the bill as enacted was Active Support.

### ■ **HB2556: HEALTH CARE QUALITY ASSURANCE**

Resurrected via a striker amendment, this helpful "peer review" bill sponsored by House Health Committee Vice Chair Rep. Regina Cobb of Kingman helps better protect health care providers, hospitals and outpatient surgical centers that conduct "quality assurance activities" (defined), and clarifies that health care entities are authorized to share "quality assurance information" (defined) with appropriate state licensing or certifying agencies and with licensed health care providers who are the subject of quality assurance activities. Regulations on the confidentiality

of quality assurance information are modified, including specifying that sharing information about quality assurance activities as permitted by this legislation does not waive or otherwise impair the confidentiality of the information, and that otherwise discoverable information does not become confidential based solely on its submission to or consideration by a health care entity conducting confidential quality assurance activities. This bill, which the Governor has signed, also contains a legislative intent section. ArMA's position on the bill was General Support.

## **PUBLIC HEALTH/PUBLIC POLICY**

*During this session there were 41 bills in the Public Health/Public Policy category that ArMA followed. Of those, the following are the most important:*

### ■ **SB1257: BEHAVIORAL HEALTH; TRANSFER; AHCCCS**

Via a striker amendment in House Appropriations, this bill effectuates the repeal of the Division of Behavioral Health at ADHS and transfers its powers and duties for various mental and behavioral health services to the AHCCCS Administration, except for those relating to the state hospital, in order to conform to Laws 2015, Chapter 19 (part of the FY2015-16 budget). AHCCCS is required to act through the Regional Behavioral Health Authorities (RHBA's) to establish and operate various existing behavioral health programs. Statute governing contracts with RBHAs for behavioral health services is repealed and replaced. The ADHS Director, instead of the Deputy Director of the Division, has charge of the state hospital and related responsibilities and duties. ADHS is required to adopt rules relating to the state hospital, including standards for providing services and admission and transfer of patients. ADHS is required to present a budget request for the state hospital and to submit an annual report on the state hospital to the Governor and the Legislature. The bill also repeals the Serious Mental Illness Services Fund and transfers all unexpended and unencumbered monies remaining in the Fund to the general fund on the effective date of this legislation. By November 15, 2015, the AHCCCS Administration and ADHS are required to submit a joint report for review by the Joint Legislative

Budget Committee and the Governor's Office of Strategic Planning and Budgeting that details the transfer of resources between the two departments. The bill, signed by Governor Ducey on April 6th, has a delayed effective date of July 1, 2016. ArMA's position was General Support.

■ **SB1194: MEDICALLY UNDERSERVED AREAS**

■ **HB2495: MEDICALLY UNDERSERVED AREAS**

Under this bill (initially introduced by Rep. Carter as HB2495 which faltered and was brought back by Sen. Gail Griffin as SB1194), the Primary Care Provider Loan Repayment Program (Program) and the Rural Private Primary Care Provider Loan Repayment Program (Rural Program) are expanded so that they may be used to pay off portions of education loans taken out by pharmacists, "advance practice providers" (defined as a physician assistant or registered nurse practitioner) and "behavioral health providers" (defined) who meet other Program or Rural Program qualifications, including service for at least two years in rural areas, high-need health professional-shortage areas or medically underserved areas. The bill also increases the maximum amount of loans for each provider that may be repaid with Program monies. ADHS is permitted to implement the Program independent of federal grants based on the needs of Arizona, and to use monies to develop programs such as employer recruitment assistance to increase participation in the Program. It also repeals the Behavioral Health Practitioners Loan Repayment Program. ArMA's position on the bill as enacted was General Support.

■ **SB1318: ABORTION; HEALTH CARE EXCHANGE; LICENSURE**

Clearly one of the most controversial and second-guessed bills of the session, this abortion-related bill introduced by Senator Barto was one that ArMA attempted without success to influence behind the scenes. It is a classic example of our Republican-controlled Legislature not letting the facts get in the way of making yet another anti-abortion political statement. Unfortunately, the "bad medicine" it calls for may have repercussions that extend beyond the abortion issue, namely: the list of information that a physician must inform a woman of at least 24 hours before performing an abortion is expanded to include a notice

that it may be possible to reverse the effects of a medication abortion if the woman changes her mind but that time is of the essence, and that information on and assistance with reversing the effects of a medication abortion is available on the ADHS website. The information that must be included on the ADHS website is expanded to include information on the potential ability of qualified medical professionals to reverse a medication abortion, including information directing women where to obtain further information and assistance in locating a medical professional who can aid in the reversal of a medication abortion. Also, under the bill as enacted, any qualified health insurance policy, contract or plan offered through any health care exchange operating 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. The list of exceptions from this prohibition is expanded to include coverage for an abortion when the pregnancy is the result of rape or incest, in addition to an abortion that is necessary to save the life of the woman or avert substantial and irreversible impairment of a major bodily function of the woman. On initial licensure and any subsequent renewal, an abortion clinic is required to submit to ADHS all documentation required by statute, including verification that the clinic's physicians have admitting privileges at a health care institution. The list of ADHS information that is not available to the public is expanded to include personally identifiable information of a physician that is received and any records kept regarding the physician's admitting privileges to an abortion clinic. ArMA's position on the bill was No Action – Monitor.

■ **SB1404: HEALTH CARE DIRECTIVES, CONFLICTS**

Sponsored by Senator Yee, this bill helps clarify the handling of advance health care directives by patients. It states that 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. This bill was signed by the Governor on April 1st. ArMA's position was General Support.

## ■ HB2604: EPINEPHRINE AUTO-INJECTORS

This bill by Rep. Cobb cleared the House without difficulty but failed to get a hearing in the Senate. It would have authorized 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 would have been permitted to acquire and stock a supply of epinephrine auto-injectors and designate employees or agents who are trained to be responsible for the injectors. Trained employees or agents would have been authorized to provide or administer an epinephrine auto-injector to any individual s/he believes in good faith is experiencing anaphylaxis. Training requirements were specified in the bill. ArMA’s position was General Support.

## ■ HB2643: SOVEREIGN AUTHORITY; AFFORDABLE CARE ACT

Under this politically-charged and confusingly-drafted bill, signed on April 10th by Governor Ducey, the state and all political subdivisions will now be prohibited from using any personnel or financial resources to enforce, administer or cooperate with the Affordable Care Act by funding or implementing a state-based health care exchange or marketplace, limiting the availability of self-funded health insurance programs, funding or aiding in the prosecution of any entity for a violation of the Act, or funding or administering any program or provision of the Act other than those involved with AHCCCS, health insurance navigators and other specified programs. There are some exceptions, including that the state and all political subdivisions are permitted to use personnel or financial resources to provide employee health insurance benefits, and those benefits may be in compliance with all provisions of the Act. This one certainly telegraphs the punch of the Legislature and Governor, should the U.S. Supreme Court strike down the insurance subsidies under the ACA, which will negatively impact as many as 266,000 Arizonans. ArMA’s position was No Action – Monitor.

## ■ HB2645: LAB TESTING WITHOUT PHYSICIAN ORDER

Sponsored by Rep. Carter, this bill was “wired” from start to finish, thanks to high-powered lobbying by lab juggernaut Theranos and backing by Speaker Gowan and Governor Ducey. As enacted, it states that a person may to obtain any lab test from a licensed clinical lab on a direct access basis without a health care provider’s request or written authorization, provided that the lab offers that test to the public on a direct access basis (prior AZ law allowed direct access for only about 50 tests). For tests not conducted at the request or authorization of a physician, the test results must be reported to the person who was the subject of the test and must state in bold type that it is the person’s responsibility to arrange with the person’s health care provider for consultation and interpretation of the test results. ArMA worked hard on the bill behind the scenes to secure language stating that a health care provider’s duty of care to a patient does not include any responsibility to review or act on lab test results that the provider did not request or authorize. A clinical lab cannot submit a claim for reimbursement from a third party payor for any lab test conducted without a health care provider’s request or written authorization. The bill does not require that a lab test be covered by a health insurance plan or AHCCCS plan. ADHS is required to adopt rules to address the changes in direct access lab testing. ArMA’s position was General Non-Support.

## HEALTH CARE INSTITUTION ISSUES

*In the Health Care Institution Issues category, ArMA followed five bills this session, two of which are discussed below.*

## ■ SB1166: HEALTH CARE INSURANCE; UTILIZATION REVIEW

Under this bill sponsored by Sen. David Farnsworth of Mesa, 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. ArMA’s position on the bill as enacted was Active Study.

■ **SB1283: OUTPATIENT TREATMENT CENTERS; COLOCATION**

Introduced by Sen. Barto, this bill states that one or more outpatient treatment centers which provide medical, nursing and health-related services are authorized to co-locate with one or more licensees that provide behavioral health services or with one or more licensed counseling facilities and are authorized to share common areas and non-treatment personnel. Requirements for co-location applications and use of treatment areas are specified. ADHS is “required” rather than “allowed” to adopt licensing provisions that facilitate the co-location and integration of outpatient treatment centers that provide medical, nursing and health-related services with behavioral health services. The bill contains an emergency clause, allowing it to become effective as of April 1st. ArMA’s position on the bill as enacted was Active Study.

**CONCLUSION**

By any measure, ArMA accomplished its advocacy mission extremely well this legislative session, a notable feat considering that we were sadly forced to turn to an outside lobbyist after losing our beloved David Landrith. Fortunately, ArMA chose wisely, securing the services of Steve Barclay, a top-flight professional lawyer-lobbyist with over 31 years of health care lobbying experience and expertise. Steve served us extremely well and we look forward to having him continue on as ArMA’s champion.

As is frequently the case, our efforts throughout this session were oriented towards playing defense — stopping bad bills from advancing and protecting ground we have already gained — which we did with great success in nearly all instances. However, we were also successful in moving our own health care legislation forward to the finish line, which is difficult even under the best of circumstances (and these were clearly not). Those wins are especially gratifying.

As we approach the off-season there is work to be done, as always, to prepare for the known (those practice scope expansions and “bad medicine” bills we tend to see almost

annually) as well as the unknown. We will redouble our efforts to educate lawmakers and staff on the importance of sound public policy decisions in the realm of health care, and the need for them to be supportive of the needs of both physicians and patients. We cannot lower our guard for a moment because we live in a time of great uncertainty with regard to the future of health care – all it takes is a quick glance at the monumental cases pending before the U.S. Supreme Court and the Arizona Supreme Court to confirm that fact.

As we have said before, it is vital for all physicians to acknowledge and embrace the need to support the legislators (and, perpetually, the candidates) who fight for ArMA’s causes. We would especially like to thank Representative Heather Carter, House Health Committee Chair; Representative Eric Meyer, M.D., House Minority Leader; Senator Kelli Ward, D.O., Vice Chair of Senate Health & Human Services; Senator Katie Hobbs, Senate Minority Leader; and rising stars Representative Regina Cobb, Vice Chair of House Health; and Representative Jill Norgaard, for their willingness to stand strongly for us on the proactive and defensive issues we fought so hard for this year.

