

2017 HEALTH LEGISLATIVE REPORT

AS OF MARCH 31, 2017

Following is a Health Legislative Report for the Fifty-Third Legislature, Second Regular Session (2017), including those bill summaries with the most relevance to the practice of psychiatry that have been presented to date in this session. The bill summaries and histories are copyrighted by Arizona Capitol Reports, L.L.C. If you would like any additional information, please contact the APS Lobbyist, Joe Abate, at 602-380-8337. If you are interested in being a part of the Legislative Committee of APS, chaired by Dr. Roland Segal, please contact teri@azmed.org.

H2084: TRIBAL COURTS; INVOLUNTARY COMMITMENT ORDERS

A mental health treatment facility is authorized to admit a patient for involuntary treatment pending the filing of a tribal court's involuntary commitment order with the clerk of the superior court as required by statute. The facility is required to discharge the patient if the order is not filed by the close of business on the next day that the court is open after the admission of the patient.

H2136: APPLICATIONS FOR REGULATION; INFO; PROCESS

Groups applying for regulation of a profession or for an increase in the scope of practice of a profession are required to include with the application suggested language for proposed legislation, and have two years in which to work on the application with the legislative committee of reference to ensure it meets statutory requirements. Other information that must be included with the application is specified.

H2195: MEDICAL BOARD; LICENSURE; DISCIPLINARY ACTION

Various changes to statutes related to the Arizona Medical Board. The definition of "unprofessional conduct" is modified to include a pattern of using or being under the influence of alcohol or drugs while practicing medicine or to the extent that judgment may be impaired. On a determination that a doctor of medicine has violated statute or rule, the Board is authorized to assess the doctor the Board's administrative costs and expenses incurred in conducting the investigation and in connection with a formal interview or hearing. H2195 has been signed by the Governor.

H2239: INCOMPETENT; NONRESTORABLE DEFENDANTS; INVOLUNTARY COMMITMENT

Various changes related to defendants who are incompetent to stand trial. If the county attorney receives a report that determines a defendant is incompetent to stand trial, the county attorney is permitted to request that the defendant be screened to determine if the defendant may be a sexually violent person if the defendant is charged with a sexually violent offense and if the report concludes that there is no substantial probability that the defendant will regain competency within 21 months. If the court orders a screening, the court is required to appoint a competent professional to conduct it and the criminal case cannot be dismissed until the professional's report is provided to the court and the parties and a hearing is held on the report. If the court finds that a defendant is incompetent to stand trial and that there is no substantial probability that the defendant will regain competency within 21 months, the court is authorized to order an assessment of the defendant's eligibility for private insurance or public benefits that may be applied to the expenses of the defendant's medically necessary maintenance and treatment. Petitions for evaluation or court-ordered treatment are required to include any known criminal history. A patient whose period of court-ordered treatment is tolled for at least 60 continuous days is permitted to request a judicial review on the patient's voluntary or involuntary return

to treatment. The medical director of a mental health treatment agency is not civilly liable for any acts committed by a released patient if the director complied with statutory requirements in good faith. Establishes various notice and reporting requirements.

H2307: CONTROLLED SUBSTANCES PRESCRIPTION MONITORING PROG

The maximum amount the Executive Director of the Board of Pharmacy is authorized to annually transfer to the Controlled Substances Prescription Monitoring Program from the Board of Pharmacy Fund is increased to \$500,000, from \$395,795. Each medical practitioner regulatory board is required to notify medical practitioners who register under the federal Controlled Substances Act of the practitioner's responsibility to register with the Board of Pharmacy and be granted access to the Program's central database tracking system, instead of each board being required to notify the Board of Pharmacy and the Board of Pharmacy notifying the practitioners. H2307 has been signed by the Governor.

H2382: PHARMACEUTICALS; MISBRANDING; ENFORCEMENT PROHIBITED

A pharmaceutical manufacturer or its representative may engage in truthful promotion of an "off-label use" (defined) of a drug, biological product or device, and an official or agent of the state cannot enforce or apply statutes prohibiting misbranding against or otherwise prosecute a pharmaceutical manufacturer or its representative for doing so. The Governor has signed this Bill.

H2493: DRUG OVERDOSE; REVIEW TEAM; CONFIDENTIALITY

Establishes the 19-member Drug Overdose Fatality Review Team in the Department of Health Services to develop a drug overdose fatalities data collection system, develop protocols for drug overdose investigations, and determine changes needed to decrease the incidence of preventable drug overdose fatalities. The Team is authorized to receive information and records from health care providers, the state and political subdivisions, and all information acquired by the Team is confidential. A violation of confidentiality requirements is a class 2 (mid-level) misdemeanor.

S1004: STRIKE EVERYTHING AMENDMENT FOR SB1004, RELATING TO HUMAN RIGHTS COMMITTEE; MEMBERSHIP

Requires each human rights committee (HRC) to include two members of the Legislature to serve as nonvoting advisory members, and requires each HRC to hold at least one community forum each year to receive comments regarding the experiences of individuals living with serious mental illness, and their family members and caregivers, across the care continuum.

S1005: STRIKE EVERYTHING AMENDMENT FOR SB1005, RELATING TO MENTAL HEALTH; HOSPITAL BOARDING

Outlines requirements of an admitting officer when reviewing an application for emergency admission involving a patient who is admitted to or located at a medical hospital as an emergency patient. States a copy of an emergency admission application containing a peace officer's original signature is acceptable and does not need to be notarized. SB1005 come out of the Health Committee as a striker but did not get through the Senate.

S1023: DISPENSERS; PRESCRIPTION DRUG MONITORING

The Controlled Substances Prescription Monitoring Program is expanded to include tracking the prescribing, dispensing and consumption of schedule V controlled substances, in addition to schedule II, III, and IV.

S1026: BEHAVIORAL HEALTH EXAMINERS; CONTINUATION

The statutory life of the Board of Behavioral Health Examiners is extended eight years to July 1, 2025. Retroactive to July 1, 2017.

S1028: OSTEOPATHIC BOARD; CONTINUATION

The statutory life of the Arizona Board of Osteopathic Examiners in Medicine and Surgery is extended eight years to July 1, 2025. Retroactive to July 1, 2017.

S1031: DANGEROUS; INCOMPETENT DEFENDANTS; STUDY CMTE

Establishes a 15-member Study Committee on Incompetent, Nonrestorable and Dangerous Defendants to research and make recommendations for a program to provide short-term and long-term treatment and supervision of persons who have been charged with violent or dangerous crimes and who have been found incompetent and nonrestorable. The Committee is required to report its findings and recommendations to the Governor and the Legislature by December 31, 2017 and self-repeals July 1, 2018. (Dr. Carol Olson is one of the members of this Study Committee.)

S1047: MEDICAL STUDENT LOANS; BOARD; CONTINUATION

The statutory life of the Board of Medical Student Loans is extended four years to July 1, 2021. Retroactive to July 1, 2017.

S1055: EXPEDITED RULEMAKING

Various changes related to expedited rulemaking. The list of circumstances under which an agency is permitted to conduct expedited rulemaking is modified to include if the rulemaking implements a course of action that is proposed in a five-year-review report approved by the Governor's Regulatory Review Council (GRRC) and if the rulemaking adopts rules of another agency that has been or imminently will be consolidated into the agency. Expedited rulemaking becomes effective immediately on the filing of notice with the Secretary of State, instead of 30 days following publication.

S1157: COMPETENCY HEARINGS; JURISDICTION; REFERRAL

The presiding judge of the superior court in each county, with the agreement of the justice of the peace or municipal court judge, is permitted to authorize a justice court or municipal court to exercise jurisdiction over a competency hearing in a misdemeanor case that arises out of the justice court or municipal court. A justice of the peace or municipal court judge, with the approval of the presiding judge of the superior court and the justice or judge of the receiving court, is permitted to refer a competency hearing to another justice court or municipal court that is located in the county.

S1236: PSYCHOTROPIC DRUGS; FOSTER CHILDREN; REPORT

By August 31 of every odd numbered year, the Department of Health Services, the Department of Child Safety and the AHCCCS Administration are required to prepare a report that compares the prescription rate of "psychotropic medications" (defined) prescribed to foster children who receive services from AHCCCS with the prescription rate of psychotropic medications prescribed to nonfoster children who receive AHCCCS services. Information that must be included in the report is specified. The report must be submitted to the chairpersons of the House Children and Family Affairs Committee and the Senate Health and Human Services Committee, or their successor committees. S1236 was replaced by a striker amendment dealing with statewide petition circulators; registration; committees and passed out of House Approp Committee as a striker by a vote 7-6. Therefore, the original content of S1236 no longer is alive at this point. The only way to return in this session would be added as a budget amendment.

S1269: PHARMACISTS; SCOPE OF PRACTICE

A licensed pharmacist is authorized to dispense a one-time emergency refill of a noncontrolled medication used to treat an ongoing medical condition if a list of specified conditions is met. The pharmacy is required to maintain a record of any emergency refill dispensed for at least one year, which must contain specified information. A licensed pharmacist who has completed a course of training is authorized to prescribe and administer oral fluoride varnish or tobacco cessation drug therapies pursuant to rules adopted by the Board of Pharmacy. S1269 has been signed by the Governor.

S1437: AGENCIES; REVIEW; GRRC; OCCUPATIONAL REGULATION

Agencies are required to limit all "occupational regulations" to regulations demonstrated to be necessary to specifically fulfill a public health, safety or welfare concern. Any person harmed by an occupational regulation is authorized to petition an agency to repeal or modify any occupational regulation within the agency's jurisdiction, and the agency is required to take action within 90 days after the petition is filed. Any person is authorized to file an action in a court of general jurisdiction to challenge any occupational regulation. Contains a legislation findings section. Severability clause.

S1439: END-OF-LIFE; DISCRIMINATION; PROHIBITION

A person is prohibited from discriminating against a health care entity on the basis that the entity does not provide, assist in providing or facilitate in providing any health care item or service for the purpose of causing or assisting in causing the death of any individual, such as by assisted suicide, euthanasia or mercy killing, and health care entities are not liable in any civil, criminal or administrative action for declining to provide those items or services. Governor Ducey has signed this Bill into law.

S1441: INSURERS; HEALTH PROVIDERS; CLAIMS; MEDIATION

A health insurance enrollee is permitted to request mediation of a settlement of an out-of-network health benefit claim if a list of specified circumstances apply, including that the amount for which the enrollee is responsible is greater than \$1,000. If the enrollee requests mediation, the health care provider or the provider's representative and the insurer are required to participate. One mediator is required to conduct the mediation, and mediator qualifications are established. Establishes provisions for mediation, including for mediation agreements and matters on which there is no agreement. Effective January 1, 2018.

S1452: HEALTH PROFESSION REGULATORY BOARDS

A member of a health profession regulatory board is ineligible for reappointment to that board once the person has been appointed for two full terms. A person may be reappointed to a board once the person has not been on the board for a time period of at least one full term. Health profession regulatory boards are required to digitally record all open meetings of the board and to maintain the records for three years. Each health profession regulatory board is authorized to establish a nondisciplinary confidential program for the monitoring of licensees who may have been chemically dependent or may have had a medical, psychiatric, psychological or behavioral health disorder that may impact the licensee's ability to safely practice or perform health care tasks. Effective January 1, 2018.

S1479: MENTAL HEALTH TREATMENT; PATIENT TRANSPORT

If a peace officer is directed to take a mental health patient into protective custody or to apprehend the patient and transport the patient to an agency for inpatient treatment, a mental health provider is required to accompany the peace officer. The preliminary version of this Bill asked for a physician to ride along and was amended to mental health provider; SB1479 did not progress through the House.