ARIZONA STATE SENATE
RESEARCH STAFF

TO: JOINT LEGISLATIVE AUDIT COMMITTEE
Senator Robert Blendu, Chairman
Representative John Nelson, Cochair

HEATHER OWENS
LEGISLATIVE RESEARCH ANALYST
HEALTH COMMITTEE
Telephone: (602) 926-3171
Facsimile: (602) 926-3833

DATE: December 3, 2007

SUBJECT: Sunrise Application of the Arizona Alliance of Non-Physician Surgical Assistants

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Attached is the final report of the sunrise review of the application submitted by the Arizona Alliance of Non-Physician Surgical Assistants, which was conducted by the Senate Health and House of Representatives Health Committee of Reference.

This report has been distributed to the following individuals and agencies:

Governor of the State of Arizona
The Honorable Janet Napolitano

President of the Senate
Senator Tim Bee

Speaker of the House of Representatives
Representative James Weiers

Senate Members
Senator Tom O'Halleran, Cochairman
Senator Barbara Leff
Senator Paula Aboud
Senator Thayer Verschoor
Senator Amanda Aguirre

House Members
Representative Bob Stump, Cochairman
Representative Nancy Barto
Representative Rick Murphy
Representative David Bradley
Representative Linda Lopez

Arizona Alliance of Non-Physician Surgical Assistants
Arizona State Library, Archives & Public Records
Office of the Auditor General

Senate Majority Staff
Senate Research Staff
Senate Minority Staff
Senate Resource Center

House Majority Staff
House Research Staff
House Minority Staff
Chief Clerk

HO/jas
Attachment

Senate Health and House of Representatives Health Committee of Reference Report

SUNRISE REQUEST OF THE ARIZONA ALLIANCE OF NON-PHYSICIAN SURGICAL ASSISTANTS

Background

Pursuant to Arizona Revised Statutes (A.R.S.) § 32-3104, the Joint Legislative Audit Committee (JLAC) assigned the sunrise review to the Senate Health and House of Representatives Health Committee of Reference. Attached is a copy of the application submitted by the Arizona Alliance of Non-Physician Surgical Assistants (Alliance).

Committee of Reference Sunset Review Procedures

The Committee of Reference held one public meeting on November 6, 2007, to review the Alliance's sunrise application pursuant to A.R.S. § 32-3104 and to hear public testimony.

Committee of Reference Recommendations

The Committee of Reference recommends that the Legislature approve the sunrise application submitted by the Alliance. However, the Committee of Reference did not approve a specific regulatory board or procedures for regulating non-physician surgical assistants.

Attachments:

1. Staff memo.
2. Sunrise request of the Arizona Alliance of Non-Physician Surgical Assistants.
3. Meeting notice.
4. An excerpt of the minutes of the Committee of Reference meeting relating to the sunrise application.

ARIZONA STATE SENATE
RESEARCH STAFF

TO: MEMBERS OF THE HOUSE AND SENATE HEALTH COMMITTEE OF REFERENCE

HEATHER OWENS
ASSISTANT ANALYST
HEALTH COMMITTEE
Telephone: (602) 926-3171
Facsimile: (602) 926-3833

DATE: October 10, 2007

SUBJECT: Sunrise Request of the Arizona Alliance of Non-Physician Surgical Assistants

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The following memo is background information regarding the request for regulation of nonphysician surgical assistants. Also attached is a copy of the sunrise application submitted by the Arizona Alliance of Non-Physician Surgical Assistants (Alliance). A public meeting is scheduled for November 6, 2007, to allow you to ask questions of the Alliance, take public testimony and make a final recommendation as to the Alliance's request. If you have any questions or need additional information, please feel free to contact me.

BACKGROUND

Nonphysician surgical assistants are individuals who perform tasks and assist in surgery under the direction of a surgeon. Hospitals and surgeons use surgical assistants depending upon the complexity of the operation and medical condition of the patient. Nonphysician surgical assistants include individuals from various licensed health professions, including nurses and physician assistants, but also may include individuals who do not currently fall under the jurisdiction of an Arizona regulatory board. Nonphysician surgical assistants may be employed by hospitals, surgeons or HMO's, or they may be employed as independent contractors who are called in by a surgeon as needed.

The U.S. General Accounting Office reports that, because surgical assistants include a variety of health professionals, there is no widely accepted set of uniform requirements for experience and education. However, hospitals and other medical facilities may credential the surgical assistants that are used in those settings. The National Surgical Assistant Association (NSAA) was created in 1983 to establish standards for nonphysician surgical assistants. The NSAA has a process to certify individuals who wish to receive the Certified Surgical Assistant (CSA) credential.

Three other states currently regulate nonphysician surgical assistants in some manner. In Texas, persons who wish to practice as surgical assistants must be licensed by the Texas Medical Board. Kentucky requires surgical assistants to hold and maintain certification by either the NSAA or the Liaison Council on Certification for the Surgical Technologist. Illinois requires registration of surgical assistants through the Illinois Department of Public Registration.

The Alliance submitted sunrise applications for regulation of surgical assistants in 1994, 1998, 2000 and 2006. In 2006, the Health Committee of Reference recommended regulation of surgical assistants through certification. However, the resulting legislation (Senate Bill 1294) was held in committees, and the Alliance determined to submit a new sunrise application for licensure of surgical assistants.

REQUEST FOR REGULATION

According to the Alliance, it is necessary to regulate surgical assistants because of the inherent risks involved in surgery and the potential dangers of unregulated personnel putting patients at risk of physical harm. Additionally, there is nothing at the state level to enforce codes of ethics for unlicensed surgical assistants and no formal disciplinary process. The Alliance states that regulating surgical assistants will protect the public by setting standards for the education, training and regulation of surgical assistants and by allowing the public to contact a regulatory board to file complaints and make other inquiries regarding surgical assistants. According to the Alliance, it is seeking licensure in order to assure public confidence in the surgical assisting profession.

The Alliance proposes establishing the Arizona Board of Surgical Assistants (Board), consisting of seven members appointed by the Governor. The executive director of the Arizona Medical Board or another existing body would serve as the Board's executive director. The Alliance envisions the Board regulating surgical assistants by developing standards to govern the profession, adopting rules to implement statutory requirements, establishing licensing fees and other fees, investigating complaints and disciplining surgical assistants when necessary.

The Alliance proposes a funding scheme where the Legislature would appropriate funding as a loan to the Board from the state General Fund, which would be repaid with interest as the Board begins to collect fees and support its own operations. The Alliance does not specify the amount of the loan it would request from the state General Fund, nor does it indicate the current number of unlicensed surgical assistants who would fall under the scope of the Board or an estimate of the licensing fees the Board would implement. Thus, it is unclear at this time the exact amount of the loan required, the expected revenue from the fees and the time frame for repayment of the loan.

HO/jas
Attachment

MILLER LASOTA & PETERS PLC

Tel 602 248 2900
Fax 602 248 2999
722 East Osborn Road, Suite 100
Phoenix, Arizona 85014

SUSAN A. CANNATA
susie@mlp-law.com

August 31, 2007

The Honorable Robert Blendu
Chairman, Joint Legislative Audit Committee
Arizona State Senate
1700 West Washington
Phoenix, Arizona 85007

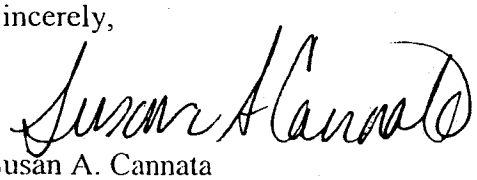
Dear Senator Blendu:

Pursuant to A.R.S. § 32-3105, the Arizona Alliance of Non-Physician Surgical Assistants ("Applicant") hereby submit this Sunrise Application for Regulation: Request for Licensure of Non-Physician Surgical Assistants to the Joint Legislative Audit Committee for consideration by the Health Committee of Reference ("COR").

In 2006, the COR unanimously recommended that the Legislature require non-physician surgical assistants who are not licensed by another regulatory board be certified by the Arizona Medical Board. As discussion ensued during the legislative session, it appeared that licensure may be necessary to assure adequate public confidence in the surgical assisting profession. Therefore, Applicant is now seeking a general recommendation for licensure. This will ensure that a range of options exist from which to draft a proper regulatory scheme for surgical assistants.

Accordingly, Applicant requests that the COR generally recommend that surgical assistants be licensed by an appropriate regulatory board, subject to the Legislature's approval. Applicant remains committed to working with legislators, their staff and the various interest groups in the upcoming session.

Sincerely,



Susan A. Cannata

SAC/jf
Enclosure
cc: Office of the Auditor General (w/enc)
Representative John Nelson, Co-Chair,
Joint Legislative Audit Committee (w/enc)
Bill Boyd, Senate Research Staff (w/enc)
Carolyn Atwater, House Research Staff (w/enc)

SUNRISE APPLICATION FOR REGULATION

REQUEST FOR LICENSURE OF NON-PHYSICIAN SURGICAL ASSISTANTS[1]

1(a). Define the problem and describe why regulation is necessary, including the nature of the potential harm to the public if non-physician surgical assistants are not regulated and the extent to which there is a threat to public health and safety.

Surgical assistants are intimately involved in providing care to the surgical patient in the operating room. The American College of Surgeons defines surgical assistants as those who provide aid in exposure, hemostasis and other intraoperative technical functions and assist the surgeon in accomplishing a safe operation with the best results.[2] As members of a surgical team, surgical assistants perform tasks under a surgeon's supervision, which may include, making initial incisions ("opening"), exposing the surgical site ("retracting"), stemming blood flow ("hemostasis"), reconnecting tissue ("suturing"), surgically removing veins and arteries to be used to bypass grafts ("harvesting") and completing the operation by reconnecting external tissue ("closing"). Surgical assistants also may sterilize instruments and perform aseptic techniques, draping procedures, drain placement, catheterization and dressing techniques. They are also knowledgeable about operating room equipment.

Surgery is invasive by nature and has inherent risks. Not regulating surgical assistants creates the danger of allowing undertrained or inappropriately trained health care professionals to be used in operating rooms, putting patients at risk of physical harm or death. Without proper regulation, the likelihood of surgical assistants functioning outside of the direct visual scrutiny of the surgeon also increases, likely resulting in mistakes being made. Potential errors of an unskilled, unregulated surgical assistant may include: greater risk of infection, excessive blood loss, allergic reactions, damage to major organs, disfiguring scars, loss of function of any limb or organ, paralysis, brain damage and even death.

In addition to the physical dangers, not regulating surgical assistants may also create financial risks for patients. Most surgical assistants are paid for their services through third-party payment. However, if a health insurance company refuses to pay for the service,[3] surgical

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[1] This Sunrise Application seeks licensure for non-physician surgical assistants who are not licensed by another regulatory board. References to "surgical assistants" in this Sunrise Application refer only to surgical assistants in this limited group of non-physician, non-RN and non-PA surgical assistants.

[2] Members of several health professionals, in addition to other statutorily permitted duties, also perform surgical assisting functions of surgical assistants. The scope of practice for surgical assistants, however, is more restricted than these other health care professionals.

[3] Based on past discussions with public and private Arizona insurance companies, third-party payments to surgical assistants are generally denied because they are unlicensed by the State. Applicant is further researching the issue to verify the reasons for non-reimbursement.

assistants directly bill the patient to collect the fee for the services provided. It is not uncommon for patients to be uninformed that there would be an additional charge beyond hospital and physician fees for services rendered during a surgery. The public is therefore at financial risk for services that it believes will be covered by insurance.

1(b). Discuss the extent to which consumers need and will benefit from a method of regulation identifying competent practitioners and indicate typical employers, if any, of practitioners in the health profession.

Regulating surgical assistants will benefit consumers because formal standards would be set for educating, training, regulating, tracking and providing disciplinary oversight of the profession. The public will also be aided by having the Legislature establish and approve the appropriate scope of practice with input from all stakeholders, providing uniform guidelines to health care professionals to properly regulate surgical assistants. More importantly, consumers will gain the added protection of being able to access a regulatory body to inquire about surgical assistants, file complaints, and seek corrective action.

The Commission on Accreditation of Allied Health Education Programs (CAAHEP)[4] has adopted standards for programs designed to train surgical assistants. These standards have been approved by the American College of Surgeons, the National Surgical Assistant Association, and the Association of Surgical Technologists. While there are various CAAHEP accredited training programs available, non-CAAHEP accredited distance learning programs are being used to train surgical assistants, creating a potential risk for under-educating and under-training surgical assistants at a cost to public safety. Additionally, because of the shortage of health care professionals trained as surgical assistants, hospitals are train their operating room staff to meet this shortage or use operating room personnel who are not formally trained as surgical assistants.

Without uniform regulation at the State or hospital level that requires surgical assistants to satisfy approved and accredited standards for training and clinical experience, consumers will not have confidence or reassurance that the surgical assistant helping with their surgery are properly educated and experienced to perform
surgical tasks. Although hospitals credential their surgical assistants, the competency standards, training and scope of practice vary from institution to institution. Moreover, there is no specific regulatory oversight of hospitals regarding surgical assistants.

By requiring surgical assistants to be licensed, the Legislature would create a uniform system of accountability for surgical assistants that will allow consumers to identify competent surgical assistants. Establishing a regulatory structure would assure that standards of practice are met and that individuals engaged in the practice of surgical assisting are competent.

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[4] CAAHEP is "the largest programmatic accreditor in the health sciences field." http://www.caahep.org/. In the accreditation process, CAAHEP works with Sub-Committee on Accreditation for Surgical Assisting, which is comprised of representatives from the American College of Surgeons, the Association of Surgical Technologists, and the National Surgical Assistant Association.

Finally, the typical employers of surgical assistants are hospitals, surgical assistant companies, surgeons, and HMO's. Surgical assistants may also be requested by a surgeon on an as-needed basis as an independent contractor.

1(c)(i). Describe the extent of autonomy a surgical assistant has as indicated by the extent to which the health profession calls for independent judgment and the extent of skill or experience required in making the independent judgment.

Under the proposed regulatory scheme, surgical assistants would not be permitted to make decisions based on independent judgment. All functions and tasks performed by surgical assistants would occur under the direction and direct supervision of a surgeon.

1(c)(ii). Describe the extent to which surgical assistants are supervised.

Surgical assistants would not be permitted to practice without the direction or direct supervision of a surgeon.

2(a)(i). Describe the efforts made to address the problem, including voluntary efforts, if any, by members of the health profession to establish a code of ethics.

The National Surgical Assistants Association (http://www.nsaa.net) and the Association of Surgical Technologists (http://www.ast.org) have both voluntarily established codes of ethics. Hospital bylaws and policy and procedures also include codes of conduct governing ethics. However, there is nothing at the state level that prescribes minimum requirements, enforce these codes, or provide a complaint process if an ethical breach occurs. Thus, voluntary codes of ethics, without regulation and an enforcement mechanism, do not provide the safeguards to protect the public.

2(a)(ii). Describe the efforts made to address the problem, including voluntary efforts, if any, by members of the health profession to help resolve disputes between health practitioners and consumers.

Without regulation and enforcement of discipline, there is no procedure in place to ensure that disputes are resolved and the activities of surgical assistants are monitored.

2(b). Describe the efforts made to address the problem, including recourse to and the extent of use of applicable law and whether it could be amended to control the problem.

No state law currently exists to regulate the non-physician, non-RN, and non-PA surgical assistants as addressed in this application. Unfortunately, voluntary efforts are inadequate and inconsistent to afford consumers the security that the surgical assistants participating in their surgeries meet state-approved competency standards and intraoperative care guidelines. This Applicant is receptive to any solutions that would adequately address the concerns relating to surgical assistants.

3(a). Describe the alternatives considered, including regulating the business employers or practitioners rather than employee practitioners.

Current regulations govern business employers and practitioners. Unfortunately, these regulations do not provide specific guidance to employers and practitioners regarding their relationships or use of surgical assistants. Without first defining how surgical assistants will be regulated, it would be impracticable and difficult to govern them through employers and practitioners. Additionally, many surgical assistants are also employed as independent contractors.

3(b). Describe the alternatives considered, including regulating the program or service rather than the individual practioners.

Regulating the program or service would negatively affect other health care providers, like RN's and PA's, whose scope of practice includes the duties that surgical assistants perform in addition to the other responsibilities authorized by law. One of the important goals of this application is not to create undue regulations on other health care professions whose laws have been carefully amended to meet the needs of their members and the public. Because a statewide program or scope of practice does not exist for surgical assistants, the program or service cannot be regulated.

3(c) & (d). Describe the alternatives considered, including regulating and certifying all practitioners.

In determining the appropriate level of regulation, certification and licensure have been considered and will continue to be considered. Applicant is open to whatever level of regulation, licensure or certification, that best accomplishes the public safety goals set forth in this application. While last year's application specified "certification," Applicant has received information suggesting licensure may be necessary to assure adequate public confidence in the surgical assisting profession. Applicant is seeking approval for licensure to have available the full range of alternatives and is committed to working with stakeholders to craft the most

appropriate regulatory scheme.

3(e). Describe the alternatives considered, including other alternatives.

At this time, Applicant sees no viable alternative to regulating surgical assistants at the state level. Applicant submitted a Sunrise Application in 1994, 1998, and in 2000. In 2005, the application was withdrawn. Applicant has been attempting to seek a resolution of this issue for many years and has engaged in ongoing dialog with members of the Legislature, health insurance providers, AHCCCS, the Governor's Office, the Arizona Department of Insurance, the Osteopathic Medical Board, the Arizona Medical Association, and the Arizona Health Care and Hospital Association regarding regulating surgical assistants.

In 2006, the Joint Committee of Reference unanimously accepted Applicant's Sunrise Application to regulate this profession through certification. During the legislative session, it appeared that certification was insufficient, and Applicant was advised that if licensure was sought, a new Sunrise Application should be submitted.

Applicant will explore alternative solutions with AHCCCS and other groups and also seeks guidance from the Legislature and its staff.

3(f). Describe why the use of the alternatives specified in the preceding paragraphs would not be adequate to protect the public interest.

The other proposed alternatives would be inadequate to protect the public interest particularly because of the mobility of surgical assistants that has resulted from the nationwide shortage of health care professionals. Without a regulatory scheme that requires surgical assistants to be licensed and subject to mandatory oversight, particularly in a profession with varying competency and educational standards, the public would not be provided the higher degree of protection that a licensing scheme affords, especially when encountering an under-qualified or untrained professional could result in great physical harm.

3(g). Describe why licensing would serve to protect the public interest.

Requiring state licensure as a prerequisite to practicing as a surgical assistant ensures that these health care professionals have satisfied the State's standards for education, training, and oversight. Of particular need and value are the enforcement capabilities of a regulatory board to monitor surgical assistants on the public's behalf. Finally, because licensure is mandatory and certification is voluntary, licensure would be beneficial because the funds needed to initiate the regulatory program would be met without financially draining the State General Fund.

4(a). Describe the benefit to the public if regulation is granted, including the extent to which the incidence of specific problems present in the unregulated health profession can reasonably be expected to be reduced by regulation.

As this Sunrise factor recognizes, no guarantee can be provided that practitioners will not violate codes of conduct, scope of practice limitations, or state laws. The Legislature, however, has the authority and the ability to foresee the dangers to the public, establish standards for training practitioners, define a narrow scope of practice, provide complaint procedures, and impose disciplinary procedures that include revoking a license and requiring a practitioner to cease practicing in the regulated field.

Statewide standards in the form of licensure also provide confidence to the public and other industries regarding surgical assistants. Not regulating the profession in this manner will continue to expose the unwary public to unforeseen health care expenses when services rendered by surgical assistants are not paid through third-party agreements.

4(b). Describe the benefit to the public, including whether the public can identify qualified practitioners.

The public will be able to identify the practitioner by a title such as Arizona Licensed Surgical Assistant and through verifying the qualifications of a surgical assistant with a regulatory body.

4(c)(i). Describe whether the proposed regulatory entity would be a board composed of members of the profession and public members or a state agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification, or licensure, including the composition of the board and the number of public members, if any, the powers and duties of the board or state agency regarding examinations and for cause revocation, suspension, and non-renewal of registrations, certificates or licenses, the adoption of rules and cannons of ethics, the conduct of inspections, the receipt of complaints and disciplinary action taken against practitioners and how fees would be levied and collected to pay for the expenses of administering and operating the regulatory system.

As currently proposed, surgical assistants would be regulated in a manner similar to physicians, registered nurses, and physician assistants, with both a state agency and a board overseeing the surgical assistants.

The Arizona Board of Surgical Assistants ("the Board") would be established, consisting of seven members appointed by the Governor: three surgical assistants, two public members, one licensed osteopathic and one allopathic physician, both who must have at least five years'

experience as a practicing surgeon. The Board's duties would include: (a) protecting the public from unlawful, incompetent, unqualified, impaired, or unprofessional surgical assistants; (b) licensing and regulating surgical assistants; (c) initiating investigations and determining if a licensee has engaged in unprofessional conduct or is or may be incompetent or mentally or physically unable to safely perform health care tasks; (d) establishing licensing and other fees and penalties; (e) developing and recommending standards governing the profession; (e) disciplining and rehabilitating surgical assistants; and (f) making and adopting rules to administer statutory requirements.

The executive director of the Arizona Medical Board or another existing state body would serve as the Board's executive director and would possess similar duties, responsibilities, and authority as prescribed in the Arizona Medical Board statutes. These include: (a) at the Board's direction, preparing and submitting recommendations for amendments to the surgical assistant statutes for the Legislature's consideration; (b) appointing and employing medical consultants and agents necessary to conduct investigations, gather information, and perform those duties that the Executive Director determines are necessary and appropriate; (c) issuing licenses to applicants who meet the statutory requirements; (d) initiating investigations of surgical assistants; (e) reviewing all complaints; and (f) performing all other administrative, licensing, or regulatory duties as required by the Board.

To initially fund the Board, a loan would be appropriated from the State General Fund to be repaid with interest as the Board collects fees to generate its own revenue. The Board would establish fees for the initial application not to exceed amounts sufficient to repay the loan and support the workings of the Board.

4(c)(ii). Describe the benefit to the public if regulation is granted, including if there is a grandfather clause, whether grandfathered practitioners will be required to meet the prerequisite qualifications established by the regulatory entity at a later date.

Without a grandfathering provision, surgical assistants who have thousands of hours of clinical experience would be at risk of losing their livelihoods, which would also exacerbate the current shortage of health care professionals. Grandfathering, however, would be restricted to those who satisfy the statutorily imposed requirements. To provide additional public safety, only those surgical assistants who meet all of the following requirements would be exempted from the education requirements: (1) be certified as a surgical assistant by a national professional certification organization; (2) have been practicing as a surgical assistant for at least two years with a minimum of a specified number of operations or hours of clinical experience before the effective date of the legislation; and (3) satisfy all of the other licensing requirements imposed by the new licensing scheme. Additional requirements are being considered to further ensure that grandfathered surgical assistants meet appropriate competency requirements.

4(c)(iii). Describe the benefit to the public if regulation is granted, including the nature of the standards proposed for registration, certification, or licensure as compared with the standards of other jurisdictions.

The proposed standards are similar to those that have been adopted in have been adopted in Texas (licensure), Kentucky (certification), Illinois (registration), and Washington D.C. (licensure). Applicant is committed to establishing standards that are, at a minimum, as rigorous as the highest standards currently in effect.

4(c)(iv). Describe the benefit to the public if regulation is granted, including whether the regulatory entity would be authorized to enter into reciprocity agreements with other jurisdictions.

At this time, the regulatory agency would not be authorized to enter into reciprocity agreements with other jurisdictions for licensure. However, the agency would be authorized to engage in the full exchange of information with the licensing and disciplinary boards and professional associations of other states and jurisdictions and foreign countries and statewide associations for surgical assistants.

4(c)(v). Describe the benefit to the public if regulation is granted, including the nature and duration of any training including whether the training includes substantial amount of supervised field (clinical) experience, whether training programs exist in the state, if there will be an experience requirement, whether the experience must be acquired under a registered, certified or licensed practitioner, whether there are alternative routes of entry or methods of meeting the prerequisite qualifications, whether all applicants will be required to pass an examination, and if an examination is required, by whom it will be developed and how the cost of development will be met.

Applicants for licensure as surgical assistants will be required to have completed a program in surgical assisting education that has been accredited by CAAHEP[5] or other programs that satisfy standards of education and clinical experience that are approved by the Board. Applicants will also be required to pass a national certifying exam for surgical assistants, as CAAHEP recognizes on its website: http://www.caahep.org/Content.aspx?ID=52. To be eligible to take the credentialing exams from a national organization, candidates must satisfy educational and clinical requirements.[6] The clinical experience must be acquired under the direct supervision and

[5] The CAAHEP Standards and Guidelines for the Profession of Surgical Assisting is available at http://www.caahep.org/documents/ForProgramDirectors/SA_Standards.pdf.

[6] National Board for Surgical Technology and Surgical Assisting eligibility requirements available at: http://www.nbstsa.org/certifyingexam/eligibility.html and the National Surgical Assistant Association requirements may be found at: http://www.nsaa.net/membership.shtml.

instruction of licensed and usually board certified surgeon. The competency exam would be given by Schroeder Measurement Technologies for the National Surgical Assistant Association and the National Board of Surgical Technology and Surgical Assisting for the Association of Surgical Technologists.

While formal training programs are not yet available in Arizona, training programs are available in other states. Two CAAHEP-accredited distance learning programs are also available to Arizona applicants.

Finally, there are no alternative routes of entry into this medical professional category. The only route available would be the competency certification requirements that have been established by the National Surgical Assistant Association and the National Board of Surgical Technology and Surgical Assisting for the Association of Surgical Technologists.

5(a)(i). Describe the extent to which regulation might harm the public, including the extent to which regulation will restrict entry into the health profession including whether the proposed standards are more restrictive than necessary to ensure safe and effective performance.

Regulation of non-physician surgical assistants will only benefit the public. It will establish state approved standards of excellence for intraoperative patient care that currently do not exist. With the aid of other health care associations and organizations, legislators, and legislative staff, Applicant is confident that the proper balance between ensuring public safety and maintaining access to the surgical assisting profession will be achieved.

5(a)(ii). Describe the extent to which regulation might harm the public, including the extent to which regulation will restrict entry into the health profession including whether the proposed legislation requires registered, certified or licensed practitioners in other jurisdictions who migrate to this state to qualify in the same manner as state applicants for registration, certification and licensure if the other jurisdictions has substantially equivalent requirements for registration, certification or licensure as those in this state.

Surgical assistants migrating from other states will be required to satisfy the same licensing requirements proposed in this regulatory scheme, particularly because most of the other states do not currently regulate surgical assistants. Because the requirements proposed in Arizona are similar to those of the jurisdictions that have enacted regulatory schemes, surgical assistants coming from those locations will be able to comply with the Arizona requirements.

5(b). Describe the extent to which regulation might harm the public, including whether there are professions similar to that of the applicant group which should be included in, or

portions of the applicant group which should be excluded from, the proposed legislation.

First, there are no similar professional groups in existence. However, to the extent that the scope of practice of other health care professionals includes surgical assisting functions among their other duties, those groups will be exempted from also obtaining a surgical assisting license.

6(a). Describe the maintenance of standards, including whether effective quality assurance standards exist in the health profession, such as legal requirement associated with specific programs that define or enforce standards or codes of ethics.

No legal requirements exist in Arizona associated with specific programs that enforce standards or a code of ethics for surgical assistants. The National Surgical Assistant Association and the Association of Surgical Technologists have self-imposed standards and codes of ethical conduct. Hospitals also maintain bylaws, competency requirements, and approved scope of practice, which may vary from institution to institution. Because of the inconsistent standards that apply to surgical assistants, a statewide system of regulation is necessary to protect the public and provide a neutral source of regulation and information. The inability to track surgical assistants has also been a major complaint of hospitals and medical insurance providers for years.

6(b)(i). Describe the maintenance of standards, including how the proposed legislation will assure quality including the extent to which a code of ethics, if any, will be adopted.

As previously stated, the Board, which will be comprised of professionals from several health care disciplines, will be authorized to develop and recommend standards governing the profession of surgical assisting. The Board's authority will also include imposing appropriate disciplinary measures, including suspending and revoking state licenses.

6(b)(ii). Describe the maintenance of standards, including the extent to which regulation might harm the public, including grounds for suspension or revocation of registration, certification, or licensure.

The grounds for suspension or revocation of the license to practice would follow those already accepted for other medical professionals such as RNs and PAs.

7. Describe the group proposed for regulation, including a list of associations, organizations and other groups representing the practitioners in this state, an estimate of the number of practitioners in each group and whether the groups represent different

levels of practice.

The practitioners in this state are represented by the National Surgical Assistant Association and the Association of Surgical Technologists. There are approximately 100 practitioners in Arizona that have a national professional certification and are not currently regulated by the State. The number of surgical assistants who are not certified by a national organization but are providing intraoperative patient care is undetermined. Regulating surgical assistants would require these uncertified practitioners to become licensed to be able to continue providing surgical care to patients in the operating room.

8(a) & (b). Describe the expected cost of regulation, including the impact that licensure will have on the costs of service to the public and the cost to the State and to the general public of implementing the proposed legislation.

Regulation will benefit the public financially because medical insurance providers would be more willing to pay for surgical assisting services. The State will provide an initial appropriation to the Board to begin operations because the Board will not immediately begin collecting fees to support its own operations. The "loan" will be repaid to the State with interest by a date certain.

SUPPLEMENTAL INFORMATION

A SURGEONS PERSPECTIVE
BY
EDWARD B. (TED) DIETHRICH, MD
1998

"Dramatic changes are occurring in our health care delivery system. We have already witnessed a call for reduction of costs associated with surgical procedures. The goal is to reduce expenditures but not sacrifice patient care.

Our cardiac and vascular experience at the Arizona Heart Hospital recognizes the importance of the operative surgeon and the non physician surgical first assistant. Acting under the supervision of the operating surgeon, the non physician surgical first assistant has a specific delineation of duties for which he or she has been explicitly trained. Once integrated into the surgical team, this person becomes an integral part of the care of the patient from the time of entry into the operating room until the operative procedure is completed and the patient transferred to a post anesthesia recovery unit. It has been our experience that this position once functional becomes essential to the satisfactory performance of surgical procedures in this environment of high quality/low cost.

Having practiced cardiovascular surgery for over a quarter of a century in Phoenix, Arizona, I have come to appreciate that the initiation of these new types of programs are a part of our changing environment and structure in health care of a surgical patient. Fortunately, these changes have been positive, promoting excellent outcomes for our patients."

AMERICAN COLLEGE OF SURGEONS

STATEMENT ON QUALIFICATIONS OF

NON-PHYSICIAN SURGICAL ASSISTANTS

"The first assistant to the surgeon during a surgical operation should be a trained individual who is capable of participating in the operation and actively assisting the surgeon as part of a good working team."

The American College of Surgeons in their Statement on Principles, American College of Surgeons (Illinois 1974, revised 1997), part II, Section B, p. 8 "***These individuals are not authorized to operate independently***. Practice privileges of individuals acting as first assistants should be based upon verified credentials, should be reviewed and approved by the hospital credentials committee, and ***should be within the defined limits of state law.***"

Interim agendas can be obtained via the Internet at http://www.azleg.state.az.us/InterimCommittees.asp

ARIZONA STATE SENATE

INTERIM MEETING NOTICE
OPEN TO THE PUBLIC

SENATE HEALTH AND HOUSE HEALTH COMMITTEE OF REFERENCE

Date: **Tuesday, November 6, 2007**

Time: **9:30 A.M.**

Place: **SHR 1**

AGENDA

1. Call to Order
2. Opening Remarks
3. Sunset Review of the Board of Homeopathic Medical Examiners
    - Presentation by Auditor General
    - Response by Board of Homeopathic Medical Examiners
    - Public Testimony
    - Discussion
    - Recommendations by the Committee of Reference
4. Sunset Review of the Regulatory Board of Physician Assistants
    - Presentation by Regulatory Board of Physician Assistants
    - Public Testimony
    - Discussion
    - Recommendations by the Committee of Reference
5. Sunset Review of the Board of Behavioral Health Examiners
    - Presentation by Board of Behavioral Health Examiners
    - Public Testimony
    - Discussion
    - Recommendations by the Committee of Reference
6. Sunset Review of the Acupuncture Board of Examiners
    - Presentation by Acupuncture Board of Examiners
    - Public Testimony
    - Discussion
    - Recommendations by the Committee of Reference
7. Sunset Review of the Board of Occupational Therapy Examiners
    - Presentation by Board of Occupational Therapy Examiners
    - Public Testimony
    - Discussion
    - Recommendations by the Committee of Reference

8. Sunrise application of the Arizona Alliance of Non-Physician Surgical Assistants
    - Presentation by Arizona Alliance of Non-Physician Surgical Assistants
    - Public Testimony
    - Discussion
    - Recommendations by the Committee of Reference
9. Sunrise application of the Southern Arizona Behavioral Health Coalition
    - Presentation by Southern Arizona Behavioral Health Coalition
    - Public Testimony
    - Discussion
    - Recommendations by the Committee of Reference
10. Sunrise application of the Arizona Dental Association
    - Presentation by Arizona Dental Association
    - Public Testimony
    - Discussion
    - Recommendations by the Committee of Reference
11. Sunrise application of Radiology Practitioner Assistants
    - Presentation by Radiology Practitioner Assistants
    - Public Testimony
    - Discussion
    - Recommendations by the Committee of Reference
12. Adjourn

Members:

Senator Tom O'Halleran, Co-Chair
Senator Paula Aboud
Senator Amanda Aguirre
Senator Barbara Leff
Senator Thayer Verschoor

Representative Bob Stump, Co-Chair
Representative Nancy Barto
Representative David Bradley
Representative Linda Lopez
Representative Rick Murphy

~~10/18/07~~
10/19/07
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Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the Senate Secretary's Office: (602)926-4231 (voice). Requests should be made as early as possible to allow time to arrange the accommodation.

ARIZONA STATE LEGISLATURE
Forty-eighth Legislature – First Regular Session

SENATE HEALTH AND HOUSE HEALTH COMMITTEE OF REFERENCE

Minutes of Interim Meeting
Tuesday, November 6, 2007
Senate Hearing Room 1 – 9:30 a.m.

Chairman O'Halleran called the meeting to order at 9:32 a.m. and attendance was noted by the secretary.

Members Present

Senator Tom O'Halleran, Co-Chair
Senator Amanda Aguirre
Senator Barbara Leff
Senator Thayer Verschoor

Representative Bob Stump, Co-Chair
Representative Nancy Barto
Representative David Bradley
Representative Linda Lopez
Representative Rick Murphy

Members Absent

Senator Paula Aboud

Speakers Present

Kim Hildebrand, Performance Audit Manager, Office of the Auditor General
Todd Rowe, Board of Homeopathic Medical Examiners
Christine Springer, Board of Homeopathic Medical Examiners
Jerry Weinsheink, representing himself
Marianne Cherney, representing herself
Neil Garfield, Association for Public Access to Medicine
Barney Nugent, representing himself
Linda Heming, CHOICE
Iris Bell, Doctor, Arizona Homeopathic and Integrative Medical Association
Cliff Heinrich, Doctor, representing himself
Kathleen Fry, Doctor, representing herself
Denise Nugent, representing herself
Lee Bakunin, Attorney, representing herself
Bruce Shelton, Doctor, Arizona Homeopathic and Integrative Medical Association
Amanya Jacobs, Director of Evolution of Self School of Homeopathy
Cindy Zukerman, representing herself
Shelly Malone, representing herself
Stan Klusky, representing himself
Gladys Conroy, representing herself

Joan Reynolds, Regulatory Board of Physician Assistants
Debra Rinaudo, Board of Behavioral Health Examiners
Stuart Goodman, Board of Behavioral Health Examiners
Bev Hermon, BH Consulting
Richard Poppy, Therapeutic Practitioners Alliance of Arizona (The Alliance)
Rachael Hopkins, representing herself
Ronald Anton, representing himself
Josephine Sbrocca, representing herself
Cedric Davis, Board of Behavioral Health Examiners
Della Estrada, Arizona Acupuncture Board of Examiners
Kathryn Babits, Arizona State Board of Occupational Therapy Examiners
Eugene Smith, Arizona Alliance of Non-Physician Surgical Assistants
Susie Cannata, Arizona Alliance of Non-Physician Surgical Assistants
Rory Hays, Arizona Nurses' Association
Scott Leckie, Radiology Practitioner Assistants
Jane Van Valkenburg, Certification Board for Radiology Practitioner Assistants (CBRPA)
Mary Connell, M.D., representing herself
Christine Lung, American Society of Radiologic Technologists (ASRT)
John Gray, Grand Canyon University
Joyce Geyser, Arizona Radiological Society
James Abraham, National Society of Radiology Practitioner Assistants
Heather Owens, Senate Health Analyst
Aubrey Godwin, Medical Radiologic Technology Board of Examiners (MRTBE)
Teresa Rodgers, Behavioral Health Coalition of Southern Arizona
David Giles, Behavioral Health Coalition of Southern Arizona
Holly Baumann, Southwest Autism Research and Resource Center
John MacDonald, Arizona Dental Association (ADA)
Rick Murray, Arizona Dental Association
Anita Elliott, Arizona Dental Association
Nicole Laslavic, Arizona State Dental Hygienists' Association
Janet Midkiff, Arizona State Dental Hygienists' Association
Nicole Albo, Arizona Dental Assistants' Association
Alisa Feugate, Arizona Dental Hygienists' Association

OPENING REMARKS

Chairman O'Halleran welcomed everyone and requested that the speakers keep their comments as brief as possible, as the committee members are well-versed in the issues to be discussed today.

SUNSET REVIEW OF THE BOARD OF HOMEOPATHIC MEDICAL EXAMINERS

Presentation by Auditor General

Kim Hildebrand, Performance Audit Manager, Office of the Auditor General, gave a presentation on their findings issued in August, 2007 (Attachment 1). She described the history

Recommendations by the Committee of Reference

Cochairman Stump moved that the Senate and House Health Committee of Reference recommend the continuation of the Board of Occupational Therapy Examiners for ten years. The motion carried by a voice vote.

SUNRISE APPLICATION OF THE ARIZONA ALLIANCE OF NON-PHYSICIAN SURGICAL ASSISTANTS

Presentation by Arizona Alliance of Non-Physician Surgical Assistants

Eugene Smith, Arizona Alliance of Non-Physician Surgical Assistants, addressed the committee to explain that the application now requires licensure rather than certification, which is voluntary.

Senator Leff explained that non-physician surgical assistants are currently in limbo because, although they work in the operating room under a surgeon, they do not have a separate license. She stated they were not getting paid because insurance companies did not recognize their service as they recognize a surgical nurse or a physician's assistant. Hence, she stated, this profession must be licensed by the state. Further, she said, the Arizona Medical Board is now saying that these individuals are practicing medicine without a license, which can jeopardize the supervising surgeon's medical license.

Public Testimony

Susie Cannata, Arizona Alliance of Non-Physician Surgical Assistants, addressed the committee to state that this is an attempt to legitimize what is currently going on.

Rory Hays, Arizona Nurses' Association, stated that she is neutral on this but does have concerns regarding educational training, testing, scope of services, and regulation. She also spoke about grandfathering, which is an important step to be taken, but with assurances regarding testing and educational programs.

Recommendations by the Committee of Reference

Senator Leff moved that the Senate and House Health Committee of Reference recommend the Legislature approve the sunrise application submitted by the Arizona Alliance of Non-Physician Surgical Assistants. The motion carried by a voice vote.

SUNRISE APPLICATION OF RADIOLOGY PRACTITIONER ASSISTANTS

Presentation by Radiology Practitioner Assistants

Scott Leckie, Radiology Practitioner Assistants, explained that while radiology assistants (RAs) and radiology practitioner assistants (RPAs) are very similar entities, there is no legislation that recognizes RPAs, which is a fairly new sub-specialty of radiology. He described RPAs as

Janet Midkiff, Arizona State Dental Hygienists' Association, stated that they support the concept of training community people to be dental health representatives, and that the definition of the COHR does make sense to them. She stated concerns about the education, licensing, or certification of the people who fill the COHR positions. She said that her organization would like to work with the ADA and to be a part of the access to care issue.

Nicole Albo, Arizona Dental Assistants' Association, stated her support for the COHR program provided that the positions will be filled by certified dental assistants with additional training components. She stated that she has been working with the ADA to develop a curriculum for expanded COHR training.

Representative Murphy asked if the committee could approve the concept but not specify the details, letting the Legislative process do that. Mr. Murray stated that the supervision issue is the biggest concern.

Alisa Feugate, Arizona Dental Hygienists' Association, stated that she supports the concept of the COHR but is neutral on the application at this time due to concerns about supervision and scope of practice.

Recommendations by the Committee of Reference

> **Cochairman Stump moved that the Senate and House Health Committee of Reference recommend that the Legislature amend the statutes of the Arizona Board of Dental Examiners to create a new certified professional, the Community Oral Health Representative, to coordinate community-based oral health promotion and provide specified dental care under the general supervision of a licensed dentist. The motion carried by a voice vote.**

Without objection, the meeting adjourned at 4:15 p.m.

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Jane Dooley, Committee Secretary
November 6, 2007

(Original minutes, attachments and audio on file in the Office of the Chief Clerk; video archives available at http://www.azleg.gov/)