

**QUARTERLY MEETING OF THE
ARKANSAS STATE BOARD OF HEALTH**

July 23, 2015

MEMBERS PRESENT

Lawrence Braden, M.D., President
Jim Lambert, President-Elect (via phone)
Nathaniel Smith, M.D., MPH, Secretary
Gary Bass, Pharm.D.
Patricia Bell, O.D. (via phone)
Greg Bledsoe, M.D., Surgeon General
Glen "Eddie" Bryant, M.D. (via phone)
Miranda Childs Bebee, D.D.S.
Clark Fincher, M.D.
Alan Fortenberry, P.E.
Beverly Foster, D.C.
Larry Fritchman, D.V.M.
George A. Harper, J.D.
Anthony N. Hui, M.D.
Susan Jones, M.D.
Thomas Jones, R.S.
Marvin Leibovich, M.D.
Mary Beth Ringgold
Catherine Tapp, MPH
Robbie Thomas Knight, Ph.D.
Peggy Walker, RN-BC, MSN, CADC (via
phone)
Anika Whitfield, D.P.M.
Terry Yamauchi, M.D. (via phone)
James Zini, D.O.

Members Absent (excused)

GUESTS PRESENT

Rick D. Hogan, J.D., MPH, General Counsel
Reginald A. Rogers, J.D., Deputy General
Counsel
Elizabeth Pitman, J.D., MPH, Deputy General
Counsel
Leslie Lovett, Board of Health Liaison
Namvar Zohoori, M.D., Deputy Science Officer
Ann Purvis, Deputy Director, Administration
Mike Wilson, EOC, Technical Manager
Kerry Krell, Communications
Renee Mallory, Director, Center for Health
Protection
Shirley Louie, Center Director, Center for Public
Health Practice
Jeff Stone, Director, Engineering
Glen Baker, M.D., Director, Public Health Lab
Patti Scott, D.N.P., Center Director, Center for
Health Advancement
Tracy Bradford, Rural Health & Primary Care
Director
Andrea Ridgeway, Branch Chief, Hometown
Health Support Services
Kelli Kersey, Section Chief, Cosmetology
Sandra Young, M.D., Secure Arkansas
Marisha DiCarlo, Director of Communications
Robin Michaels, Inspector, Environmental Health
Susan Weinstein, DVM, State Veterinarian
Michelle R. Smith, Ph.D., MPH, Director,
Minority Health
Greg Brown, Associate Branch Chief,
Preparedness & Response
Terry Paul, Branch Chief, Environmental Health
Bernie Bevill, Section Chief, Radiation Control
Connie Melton, Section Chief, Public Health
Bob Higginbottom, Director, Protective Health
Codes
Hilda Dupwe, Section Chief, CD/Immunization
James Myatt, Branch Chief, Pharmacy

MEETING OF THE STATE BOARD OF HEALTH

The Meeting of the Arkansas State Board of Health was held Thursday, July 23, 2015, in the Charles Hughes Board Room at the Freeway Medical Building in Little Rock, Arkansas. President Braden asked those members participating by conference call to give their names. Jim Lambert, Patricia Bell, O.D., Eddie Bryant, M.D., Peggy Walker, RN-BC and Terry Yamauchi, M.D. responded. It was reported there was a quorum and the meeting was called to order at approximately 10:00 a.m.

APPROVAL OF MINUTES

President Braden entertained a motion for approval of the April 23, 2015, Quarterly Meeting minutes, as well as the Subcommittee minutes. Dr. Fritchman made a motion to approve the minutes and Dr. Zini seconded the motion. The motion passed and the minutes were approved as presented.

OLD BUSINESS

Proposed Rules and Regulations Pertaining to Body Art

J. Terry Paul, R.S., Section Chief, Environmental Health reported that he was bringing the proposed rules for body art back before the Board after the initial public comment period. Based on comments received the Rule was amended as presented.

A subcommittee of the Board included Tom Jones, R.S., P.J. Walker, RN-BC and Larry Braden, M.D. met to discuss these comments and changes before asking the full Board for approval. During that meeting a few questions arose and changes were made yet again. The updated summary and Rules were given to each member at the meeting.

Katie Weirges, ADH Inspector, stated the "Ultra-Sonic Cleaners" was taken out and was placed back into the Rules since the Subcommittee meeting. A statement regarding incapacitated adults was also added to the Record Keeping and Minor and Legal Guardianship sections.

Mr. Harper stated "the substantive changes were agreed on by the Board before it was taken out, correct?" Ms. Pitman stated that was correct the Board had approved the change regarding Ultra Sonic Cleaners. However, the statement regarding incapacitated adults was new.

Mr. Jones requested that the Environmental Section present a yearly report on how the scarification process, in the establishments, is going.

Mr. Jones and Ms. Walker both stated that they are happy with the Rules as presented.

A motion to approve the proposed rules as presented and return to public comment was made by Mr. Jones. Mr. Fortenberry seconded the motion. The motion passed with one abstention from Dr. Yamauchi.

**Final Approval of Rules and Regulations for
Control of Sources of Ionizing Radiation
October 2014**

Bernie Bevill, Section Chief, Radiation Control requested final approval of the proposed Rules for Control of Sources of Ionizing Radiation. He stated that Arkansas is an agreement state with the National Regulatory Committee (NRC) and are expected to have Rules that are compatible with the NRC. This rule change would bring Arkansas to that level of compatibility. All steps in the administrative rule making process have been completed.

A motion to approve the final rules was made by Dr. Fincher and seconded by Dr. Beebe. The motion carried.

**Final Approval of Rules and Regulations for
Control of Sources of Ionizing Radiation
April 2015**

Bernie Bevill, Section Chief, Radiation Control requested final approval of the proposed Rules for Control of Sources of Ionizing Radiation. He stated these are also regulations that the Department must adopt to be compatible with the National Regulatory Committee (NRC). These include insuring nuclear security and the distribution of source materials such as depleted uranium. All steps in the administrative rule making process have been completed.

A motion to approve the proposed rules was made by Dr. Zini and seconded by Dr. Whitfield. The motion carried as presented.

**Final Approval of Rules and Regulations
Pertaining to Hospitals & Related Institutions**

Robert Brech, Chief Financial Officer, stated that the Rules have not been cleared by the Rules Committee. However, the Rules were approved by the Public Health Committee. He stated that there was one issue that came up that needed to be addressed before the Rules could be filed. The issue was whether or not an Advanced Practice Nurse (APN) can treat and release a non-emergent patient from a hospital. It would be limited to non-emergent patients treated by the Advanced Practice Nurse (APN) and then discharged. There had been some opposition to this change.

Mr. Brech stated that he was hopeful that the Rules would be worked out and presented to the Rules Committee in August. He stated if it pleased the Board, they could approve the Rule as it is written awaiting approval by the Rules Committee and Governor's Office.

It was reiterated that under these Rules an APN could treat and release a non-emergent patient.

Mr. Lambert made a motion to approve the Rules, pending approval by the Rules Committee and the Governor's Office. Dr. Whitfield seconded the motion. Dr. Fritchman and Dr. Zini opposed the motion and it was approved as presented.

**Final Approval of Rules and Regulations
Pertaining to Critical Access Hospitals**

Robert Brech, Chief Financial Officer, stated these Rules mirror the Hospitals and Related Institutions Rules as stated previously.

Dr. Fincher made a motion to approve the Rules, pending approval by the Rules Committee and the Governor's Office. Mr. Lambert seconded the motion. The motion passed with two opposed from Dr. Zini and Dr. Fritchman.

NEW BUSINESS

ADH v. Blytheville School of Cosmetology

This item was tabled until the October Board meeting.

**Proposed Rules and Regulations
for Cosmetology in Arkansas**

Kelli Kersey, Section Chief, Cosmetology stated that the Cosmetology Rules had not had a complete rule revision since 2007. A Subcommittee was formed and met several times to discuss the presented changes. A public comment period was also held.

Items changed included number 30, Separate Electrical and Non-Electrical Instruments and Equipment. This was taken directly from the textbooks used in Cosmetology Schools. Other changes were to change placement and/or basic grammar.

A motion to approve the changes as presented was made by Ms. Tapp and seconded by Dr. Childs-Bebee. The motion was approved.

**Proposed Appointments to the 2015-2017
Cosmetology Technical Advisory Committee**

Kelli Kersey, Section Chief Cosmetology, stated every two (2) years all seven positions must be reapplied for on the Committee. By statute the following must be appointment to each position; one (1) cosmetologist, one (1) nail technician, three (3) at large members, one (1) owner of a private school, and one (1) aesthetician.

It was also noted that there can only be two members per district. Other points they also looked for were experience, minority status, areas of expertise and areas within the districts. There were sixty-one (61) applications received. Jessica Peck, Trish Anderson and Angela Jackson are all returning members.

A motion to approve the rules was made by Ms. Tapp. Dr. Jones seconded the motion and it passed.

**Proposed Rules and Regulations Pertaining
to Post-Secondary Rules for Massage Therapy**

Elizabeth Pitman, J.D., MPH Deputy General Counsel, reminded the Board that the Legislature voted in Act 1020 to give Arkansas Department of Health (ADH) the Massage Therapy Board starting on October 1, 2015. These Rules are updating the Massage Therapy Schools and Postsecondary Massage Therapy Schools. These updates are much like the Post-Secondary Rules pertaining to Cosmetology that the Board put into place.

Ms. Pitman asked for approval to begin the full rule making process.

A motion was made by Dr. Fincher. Dr. Whitfield seconded and the motion passed as presented.

**Proposed Appointment to the State
Committee of Plumbing Examiners**

J. Terry Paul, R.S., Section Chief, Environmental Health stated that plumbing statute authorizes the Board of Health to appoint members to the Committee of Plumbing Examiners. The Committee consists of seven voting members. Two (2) of which shall be master plumbers, one (1) journeyman plumber, one (1) professional engineer with special expertise in plumbing design, two (2) consumers, and one (1) representative of the Department.

Mr. Siria and Mr. Chartrand served two (2) terms, or eight years and the staff recommends replacement for both.

It was recommended that Mr. Siria, serving as journeyman, be replaced by Stan Stapleton from Conway. It was also recommended that Mr. Chartrand, serving as a consumer, be replaced by Russell Anderson of Springdale.

A motion to approve the appointments was made by Mr. Fortenberry. Dr. Hui seconded the motion and it carried.

**Proposed Rules and Regulations for
Nursing Home Residents and Employee Immunization Law**

Hilda Dupwe, Section Chief, Immunizations, stated Act 1051 of 2015 changed the requirement for the Arkansas Department of Health (ADH) to provide pneumococcal and influenza vaccines to residents and influenza vaccine to employees when there is a third-party pay source available. Currently, ADH supplies approximately 47,000 doses of flu vaccines and 3,000 doses of pneumococcal vaccines to approximately 250 nursing homes each year. Based on current pricing of state-purchased vaccines, implementation of this new law would be a cost savings of \$1,347,790 per year for ADH. It was also noted that the effective date of this Rule and

Regulation change will not allow ADH to experience cost savings during the 2015-2016 flu season.

Other changes to the Rules and Regulations included updating the formatting to meet current requirements and updating exemptions to reflect “philosophical” vs. “religious”. As well as aligning exemption options with A.C.A. §20-10-1305 which provides that employees only have the option for a medical exemption and aligning the data requirements for the Nursing Home Log to capture all the federal documentation requirements for vaccines administered.

Lastly, was to add the federal requirement to provide Vaccine Information Statements explaining risks and benefits before vaccine administration.

Dr. Zini made a motion to approve the proposed rules and Dr. Fincher seconded. The motion carried.

Proposed Rules and Regulations Pertaining to Immunization Reporting

Hilda Dupwe, Section Chief, Immunizations, stated Act 541 of 2015 removed the adult consent requirement before immunization providers report an adult immunization to the statewide immunization information system (IIS). This change brings the IIS Rules and Regulations into alignment with the State’s Health Information Exchange’s (SHARE) consent requirements and eliminates the administrative burden on immunization providers to gain and document consent prior to reporting.

Dr. Smith added this would be treated as other protected health information is treated.

A motion was made by Dr. Fincher. It was seconded by Dr. Zini and passed.

Proposed Rules and Regulations Pertaining to the List of Controlled Substances

James Myatt, Branch Chief, Pharmacy Services and Drug Control Branch, stated there was four changes to the list of controlled substances. The first proposed amendment was to add Mitragynine as a schedule 1 drug (page 2, section c, 24) since it has no recognized medical use by the FDA. This drug is derived by Kratom. Second, was to add 7-hydroxymitragynine as a schedule 1 drug (page 2, c, 25) also derived from Kratom. Third, was to add Alpha-pyrrolidinopentiophenone (alpha-PVP) (page 5, b, 8) also as a schedule 1 drug. Alpha-pyrrolidinopentiophenone (alpha-PVP) is a synthetic stimulant known to cause violent behavior. Lastly, was Suvorexant, an FDA approved drug for the treatment of insomnia. In order to follow the DEA, this drug would be included as a Schedule IV controlled substance (page 14, c, 56).

Dr. Fritchman made a motion to approve the rules and Dr. Hui seconded. The motion carried as presented.

Dr. Smith thanked the Department for their foresight to the controlled substances list by being very vigil and keeping it up to date. He stated "that we really are a step ahead of our neighboring states."

A motion was made by Mr. Fortenberry to approve the Rules. The motion was seconded and passed.

Approval for Local Grant Trust Funds

James Joiner, Facility Engineer, stated that the Local Grant Trust Fund Subcommittee approved awards/amendments to Scott, Pulaski, Hot Spring, Jefferson and Crittenden Counties. Baxter County also had a rescinding grant.

Mr. Fortenberry made a motion to approve the Local Grant Trust Funds. Dr. Zini seconded the motion and it passed.

Approval of Consent Request from the Arkansas Central Cancer Registry

Rick D. Hogan, J.D., MPH, General Counsel reported that both request had been through the Science Advisory Committee and were approved. Both were also approved through the IRB process as well.

The first study was regarding Medullary Thyroid Carcinoma (MTC) Surveillance. He reported the FDA has required sponsors of the approved diabetes control drugs to conduct a MTC study as part of a post-marketing study of the medications. These drugs were approved and have been on the market since 2010. The study included the development of an adult MTC registry in order to collect information about patients who have used the drug, as well as information about patients who have not. The purpose is to monitor the annual incidence of MTC in adults in the U.S. and to identify any possible increases related to the introduction of the drugs. They will also collect information about possible risk factors of MTC, including the drug treatments. Over the period 2010-2024, they expect approximately 6,750 men and women 18 years and older in the U.S. to volunteer to participate in the registry. In Arkansas, 69 cases are expected to be eligible to participate over the period.

Second was the approval for the Forteo Patient Registry Study. He state that the FDA required sponsors of the osteoporosis treatment drug, Forteo, to conduct a post-marketing study of the medication. Forteo was approved in 2002 for postmenopausal women with osteoporosis and men with low bone density (BMD) at high risk for bone fractures. The drug treatment is recommended for two years among these risk groups. Rat toxicology studies have shown an increased risk of osteosarcoma. The study is a voluntary prospective cohort study of patients 18 and older who are currently taking or have taken Forteo in the past. In Arkansas, we expect 15 adult osteosarcoma cases to be diagnosed each year.

Mr. Hogan also stated that these studies had been taken to a Subcommittee of the Board. That subcommittee consented of Larry Bass, Pharm D, Clark Fincher, M.D, George Harper, J.D.,

Catherine Tapp and Anthony Hui, M.D. They recommended to the full Board approval to the consent requests.

A motion to approve the consent requests was made by Dr. Zini. It was seconded by Ms. Tapp and carried as presented.

**Proposed Findings of Fact, Conclusions of
Law and Order Blue Bell Café, Freedom RV Park,
Walker Water Association, Ward Mobile Home and
Station One**

Reginald A. Rogers, J.D., Deputy General Counsel, stated that each of these have well water sampling issues. All of the water systems were in violation and the Subcommittee recommended the imposed recommendations of each to the full Board. Mr. Rogers stated that the Board could combine all the Finding of Facts and vote as one or to vote on each individually. It was agreed by the Board that they would combine all for one vote.

Under the Proposed Findings of Fact, Blue Bell Café was ordered to pay \$500.00 of the penalty with \$70,290.00 being suspended and based on continued compliance for one year. Freedom RV Park was ordered to pay \$500.00 with \$20,160.00 being suspended and continued compliance. Walker Water was ordered to pay \$1,000.00 with \$29,220.00 being suspended and continued compliance. Ward Mobile Home was order to pay \$1,000.00 with \$21,840.00 being suspended and continued compliance. Lastly, Station One was order to pay \$500.00 with \$21,975.00 being suspended and continued compliance.

Mr. Fortenberry made a motion to approve all the Findings of Fact, Conclusions of Law and Orders as presented by the Administrative Hearings Committee. Dr. Zini seconded the motion and it passed.

Other Business

Transportation/Access to Care Issues and Resources

Andrea Ridgway, Branch Chief, Hometown Health Support Services, gave a presentation on the Transportation/Access to Care Issues and Resources and how important it is for the community. <http://www.healthy.arkansas.gov/programsServices/hometownHealth/HHI/Documents/TransportationResources.pdf>

Dr. Whitfield stated that she greatly appreciated the Department moving forward with this concern.

Rapid Sequence Intubation Update

Greg Brown, Emergency Medical Services, Section Chief, stated that at the last Board meeting there was a discussion regarding Rapid Sequence Intubation (RSI). A Subcommittee of the Board was formed. At the meeting RSI data was given that had been collected by the EMS

Section since 2010. This data indicates that Arkansas has very high success rates for RSI procedures. However, there is no data on RSI performed on children under eight, since that is prohibited by the Board's restriction.

After a lengthy discussion of the presented data, the RSI Subcommittee agreed that more information was needed to make an informed decision. The Subcommittee asked for the following information to be gathered and presented at the next Subcommittee meeting. What other states are doing? Do those states think it is effective? What is the input from Arkansas Children's Hospital's PICU and lastly the input from Todd Maxson, M.D., Medical Consultant to the Trauma System, as to the risks and benefits.

Fluoridation Update

Jeff Stone, Director, Engineering Section, gave an update on Fluoridation particularly to the Act 197. He stated that the chart given does not represent every system in the state that Fluoridates. It represents a list of the systems that needed to be follow-up on and give technical assistance to be in compliance with the requirements. As of this July close to seventy-six percent (76%) of Arkansans that receive water receives water that is fluoridated. That put us silently above the national average. One the chart there were thirty-seven (37) systems that the Department was following up with and trying to give assistance to. Of those thirty-seven (37), twenty-four (24) are now fluoridating and are in full compliance. Nine (9) other systems were continuing to make progress. It is expected by the end of the year that six (6) of those will complete the process and begin fluoridation. It is expected that the other three (3) will reach full compliance in 2016. He also mentioned that there are four (4) systems, that even with the assistance, may not come into compliance without the Administrative Hearings process.

Dr. Fincher mentioned that Delta Dental had given unbelievable participation in this endeavor. Jeff Stone added that they had given over 8 million in grant money.

Also, Senator King was unable to attend but asked Mr. Brech to state the following on the record. "As we discussed, the requirement Delta Dental of Arkansas makes water districts sign is an unfair business practice. The fluoride mandate can be overturned through any future legislative session. I do not think it is fair to the water districts to sign an agreement requiring them to pay back the grant money if the mandate is repealed. It is true districts can pay for the equipment without grants from Delta Dental of Arkansas; however these districts operate on very tight budgets. I will propose a bill for the Special Session that would require the people to vote on this issue in the November 2016 election. I hope the Arkansas State Board of Health could allow each district to decide this issue."

Dr. Bebee replied "as a Board we operate under the laws of the state that are passed. We do not operate under what we think will happen in the next session. While I understand concerns if it was overturned and they had to pay back the money from Delta Dental. They would not have to do that; all they would have to do for pennies on the dollar would be to continue to fluoridate for ten (10) years. That would solve everything and alleviate any budget problems to these water systems because once the equipment is in place; to buy the fluoride is minimal expenditures for these water systems. So just paying back the money is not the only option that they have."

Dr. Smith also reminded the Board “that for every one (1) dollar spent in fluoridation we say the communities and the state saves \$38.00 in adverted dental costs. This is not just cost effective it is a cost savings and high return on investments.”

ADH Strategic Plan Update

Ann Purvis, Deputy Director, Administration gave an update on the Arkansas Department of Health’s Strategic Plan for the next four (4) years. After ADH employees submitted their concerns there were six goal areas chosen; Childhood Obesity, Hypertension, Immunizations, Mental and Community Wellness, Teen Pregnancy and Tobacco. This will be something ADH will continue to work on. The next steps are to ask are these smart objectives, conduct another meeting to finalize objectives, implementation of plans and return to the Board in October with a draft plan. Finally around December we hope to finalize and implement.

2015 Board of Health Workshop Survey

Elizabeth Pitman, J.D., MPH stated that according to the survey the majority of the responding Board members seem content with the current structure of October Board of Health Meeting and Annual Workshop. However, nearly forty-four percent (44%) of the responding members wanted the meeting to be one (1) day instead of two (2). With that said the meeting and workshop will remain the same.

President’s Report

Dr. Braden’s gave a presentation on “Health Status Plans for Improvement of Ouachita County and Beyond” regarding health care equality.

Director’s Report

Dr. Smith gave a brief report due to time restrictions. However, he wanted to introduce Dr. Greg Bledsoe, Arkansas Surgeon General, to the Board. Dr. Bledsoe apologized for this being his first in-person meeting of the Board due to scheduling conflicts. He thanked the Board for all they have done and continue to do in health care for the state of Arkansas.

Next, he mentioned an article from the July 13, 2015, Arkansas Democrat Gazette “Dr. Hangs Up Tactical Gear” honoring Dr. Marvin Leibovich. He thanked Dr. Leibovich for all his leadership and expertise he has brought to the Board. Dr. Leibovich thanked everyone for their kind words.

It was also noted that there was 100% attendance by the Board Members of the Arkansas State Board of Health.

Public Comments

Sandra Young, M.D. spoke to the Board about her concerns regarding Fluoridation. She was thanked for presenting her comments to the Board. There were no comments or questions asked.

There was no further business to report and the meeting was adjourned at approximately 12:30 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "N. Smith" with a stylized flourish at the end.

Nathaniel Smith, M.D., MPH
Director and State Health Officer