

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

April 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.
Glen "Eddie" Bryant, M.D.
Miranda Childs Bebee, D.D.S. (via phone)
Clark Fincher, M.D.
Alan Fortenberry, P.E. (via phone)
Beverly Foster, D.C.
Larry Fritchman, D.V.M.
George A. Harper, J.D.
Anthony N. Hui, M.D.
Susan Jones, M.D. (via phone)
Thomas Jones, R.S.
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.
James Zini, D.O.

GUESTS PRESENT

Joseph Bates, M.D., Deputy State Health Officer
Namvar Zohoori, M.D., Deputy Science Officer
Appathurai Balarugan, M.D., Medical
Director/Associate Director for Science
Rick D. Hogan, General Counsel
Reginald A. Rogers, Deputy General Counsel
Elizabeth Pitman, Deputy General Counsel
Leslie Lovett, Board of Health Liaison
Mike Wilson, EOC, Technical Manager
Kerry Krell, Communications
Xavier Heard, Director, Human Resources
Donnie Smith, Director, Center for Health
Protection
Jillian Hicks, Attorney Specialist
Haley Keenan-Gray, Director, Governmental
Affairs
Teresa Belew, Branch Chief, Injury and Violence
Control
Shirley Louie, Center Director, Center for Public
Health Practice
Todd Maxson, M.D., Injury Prevention Control
Jeff Stone, Director, Engineering
Glen Baker, M.D., Director, Public Health Lab
David Grimes, M.D., Medical Director, Family
Health Branch
Renee Mallory, Branch Chief, Health Systems
Licensing & Regulation
Gary Wheeler, M.D., Senior Physician Specialist,
Infectious Disease
Sharon Ashcraft, Section Chief, Women's Health
Rhonda Kitelinger, Coordinator, Maternity Nurse
Program
Patti Scott, D.N.P., Center Director, Center for
Health Advancement
Susan Weinstein, DVM, MPH, State Public
Health Veterinarian
Lindy Bollen, D.D.S., Director, Office of Oral
Health
Shane Callaway, Callaway Plumbing

Members Absent (excused)
Greg Bledsoe, M.D.
Robbie Thomas Knight, Ph.D.
Mary Beth Ringgold

David A. Mitchell, Eureka Springs Alderman
George Hrenchir, ARTMIS
Otis Estes, ARTMIS

MEETING OF THE STATE BOARD OF HEALTH

The Meeting of the Arkansas State Board of Health was held Thursday, April 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, Miranda Childs Bebee, D.D.S., Alan Fortenberry, P.E., Susan Jones, M.D., and Peggy Walker, RN-BC, 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 January 23, 2014 Quarterly Meeting minutes. Dr. Zini made a motion to approve the minutes and Dr. Bryant seconded the motion. The motion passed and the minutes were approved as presented.

OLD BUSINESS

Update to the Board Regarding Circuit Court Appeal of Wilma Young v. ADH

Elizabeth Pitman, J.D., MPH, Deputy General Counsel, gave the Board a brief update on Young v. ADH. She stated that Ms. Young had appealed the Board's Decision to the Circuit Court and a hearing was held. The Judge upheld the Board's decision and an Order to close the case was signed by the Judge.

Proposed Amendments of the Rules and Regulations for Post-Secondary Education in Cosmetology Schools

Elizabeth Pitman, J.D., MPH, Deputy General Counsel, requested approval of the proposed amendments to the Rules and Regulations for Cosmetology in Arkansas regarding Postsecondary Schools. She stated that additional proposed language needed to be added in order to comply with federal regulations and to ensure that postsecondary schools continue to receive Title IV funding as of July 1, 2015.

The first proposed change was to change the definition of postsecondary school (Rule 2.20) from the previous version so that only students with a high school diploma or its equivalent can be enrolled in a postsecondary school.

Second, language was added to Rule 3.2 requiring that schools wishing to enroll both secondary and postsecondary students obtain both licenses and have a process in place to ensure that only students with a high school diploma receive Title IV funding.

Third, the word “appropriate” was added to Rule 5.1(a)(5) to make it clear that the correct license must be held to operate a school or salon.

Fourth, the following was added to the requirements in Rules 7.3 & 7.5 for applications for postsecondary schools of cosmetology (public and private):

- Proof that each student enrolled has a high school diploma or its equivalent.
- Proof that the school adopts and discloses to the students the complaint process outlined in Rule 11.

And lastly, a section was added to Rule 7.11 on the educational requirements for enrollment in a postsecondary school.

A motion to approve the proposed rules was made by Catherine Tapp. The motion was seconded by Dr. Bell and the motion carried.

**Proposed Amendments of the Rules and Regulations
Pertaining to the List of Controlled Substances**

Robert Brech, Chief Financial Advisor, stated that on March 15, 2015, the Rules were filed with the Secretary of State, the Arkansas State Library, and the Bureau. The proposed amendments permanently scheduled Butylone and MAB-CHMINACA following an emergency scheduling in November. He stated the emergency rules will lapse on May 17, 2015, if the rule is not filed pending review of the Legislative Committees, due to the Legislative Session.

The Governor’s office approved the Rule changes on March 11, 2015. They were then opened for public comment and no comments were made. A hearing was held on April 20, 2015.

Mr. Brech asked the Board for permission to file these as final rules pending review of the Public Health, Welfare, and Labor Joint Committee and the Legislative Counsel Administrative Rules and Regulations Subcommittee.

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

NEW BUSINESS

**Approval of Proposed
Trauma System Budget F/Y 2016**

Renee Joiner, Section Chief, Trauma, asked for approval of the proposed Trauma System Budget for fiscal year 2016. She stated that the Governor’s Trauma Advisory Council (GTAC) created a

Finance Subcommittee to analysis and review proposed Trauma budgets. That Subcommittee formally adopted the attached budget in December 2014.

A subcommittee of the Board, chaired by Dr. Clark Fincher, was convened on March 16, 2015. After thorough discussion, the Board's Subcommittee voted unanimously to recommend the budget to the full Board for approval.

A motion to approve the Trauma Budget was made by Dr. Leibovich and seconded by Dr. Zini. The motion passed.

Proposed Rules and Regulations for Control of Sources of Ionizing Radiation

Bernie Bevill, Section Chief, Radiation Control requested approval of the amendments to the Rules for Control of Sources of Ionizing Radiation. He reported that these revisions to radioactive material regulations were driven by the Department's agreement with the U.S. Nuclear Regulatory Commission (NRC). Therefore, these changes are necessary in order to maintain compatibility with NRC regulations.

The first amendment was under Physical Protection of Byproduct Material. This amendment deals with large amounts of radioactive material that needs to be protected from theft or being mishandled.

Second, was the Distribution of Source Material to Exempt Persons and to General Licensees and Revision of General License and Exemptions. The purpose of this amendment was to require that the initial distribution of source material to exempt persons or to general licensees be explicitly authorized by a specific license, which included new reporting requirements.

Third, was regarding Safeguards Information, Modified Handling Categorization, Change for Materials Facilities. The objective of this rule was to remove safeguard information.

Dr. Hui made a motion to approve the proposed amendments to the Rules. The motion was seconded by Mr. Harper and the motion carried.

Proposed Rules and Regulations for Orthotic, Prosthetic, and Pedorthic Providers

Connie Melton, Section Chief, Health Facilities Services requested approval of the amendments to the Rules for Orthotic, Prosthetic, and Pedorthic Providers. She stated that the proposed changes were recommended by the Arkansas Orthotic, Prosthetic, and Pedorthic Advisory Board. The Board of Health Subcommittee met on April 9, 2015, and approved the Rule amendments.

Ms. Melton explained that, under the current Rules, examinations administered by American Board of Certification in Orthotic, Prosthetic, and Pedorthic are the only examinations accepted for licensure in Arkansas. The revisions would extend acceptance to examinations administered

by a second national certifier, the Board of Certification (BOC). Under Section 8 "Examinations" would be eliminated because the exam requirements are contained in Section 6.

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

Proposed Rules and Regulations for the Advisory Board of Interpreters

Elizabeth Pitman, J.D. MPH, Deputy General Counsel, requested approval from the Board of the proposed amendments to the Rules for the Advisory Board of Interpreters between Hearing Individuals and Individuals who are Deaf, Hard of Hearing, Oral Deaf, and Deafblind. She stated that the Subcommittee of the Board met on March 19, 2015, and approved the changes.

The revisions included adding the phrase hereinafter referred to as "Interpreter" to the definitions of Licensed Provisional Interpreter and Licensed Qualified Interpreter and to delete any reference to Licensed Qualified Interpreter.

Second, was to clarify the requirements for Initial Licensure and Renewal Applications.

Third, was to add a section on "teaming" to the Summary of Credentials.

Fourth, was to move around some settings in the Proficiency Levels based on recommendations from an *ad hoc* committee.

Lastly, it was requested to allow a Board Member to file a complaint based on information received verbally or anonymously.

Dr. Zini asked for clarification regarding filing an anonymous complaint. Ms. Pitman stated that they would not be able to rely completely on the complaint itself and some investigation would need to be done. Dr. Zini asked if language could be added to allow investigations to substantiate or not substantiate the complaint without moving forward. Ms. Pitman replied that could be added.

A motion to approve the proposed rules as amended was made by Dr. Zini. The motion was seconded by Mr. Fincher and the motion carried.

Appointment to the Arkansas Drinking Water Advisory Board

Jeff Stone, Director, Engineering Section, requested the nomination for appointment to the Arkansas Drinking Water Advisory and Operator Licensing Committee be approved. The nomination was received from all four organizations: Southern Arkansas University; Arkansas Water Works & Water Environment Association, Arkansas Water and Wastewater Managers Association; and the Arkansas Society of Professional Engineers.

The nominee, Aaron M. Benzing, P.E., met all requirements for appointment.

A motion to approve the appointment was made by Mr. Fortenberry. The motion was seconded by Dr. Whitfield and the motion passed.

Appointment to the Midwife Advisory Board

Sharon Ashcraft, Section Chief, Women's Health, requested the nomination for appointment to the Lay Midwife Advisory Board. Nominee, Ida Darragh, Licensed Lay Midwife, received approval from the Midwife Advisory Board, as well as the Center for Health Advancement, Family Health Branch, and Women's Health Section of ADH.

A motion to approve the appointment was made by Dr. Foster. The motion was seconded by Ms. Tapp and the motion carried.

Proposed Findings of Facts, Conclusions of Law and Order Shane Callaway

Reginald A. Rogers, J.D., Deputy General Counsel, asked the Board to remand this matter back to the Advisory Committee to hear additional evidence that Mr. Callaway presented.

A motion to remand this issue back to the Advisory Committee was made by Dr. Fincher. The motion was seconded by Dr. Zini and the motion passed.

Approval of Re-Consent Request from ACCR

Rick D. Hogan, J.D., MPH, General Counsel, requested approval of Re-Consent Request from ACCR. The Arkansas Central Cancer Registry (ACCR) submits a non-identifiable dataset to the North American Association of Central Cancer Registries (NAACCR) each year for certification. NAACCR maintains a national cancer registry dataset that is used for publications, such as the *Cancer in North America* (CINA) and a series of American Cancer Society (ACS) documents. On February 24, 2015, NAACCR requested states provide re-consents for NAACCR to provide state cancer registry data to the American Cancer Society (ACS) for use in the 2015 ACS Cancer Facts & Figures series.

NAACCR requested states provide re-consents for NAACCR to provide state cancer registry data to the American Cancer Society (ACS) for use in routine requests for statistics.

NAACCR requested states provide re-consents for NAACCR to provide state cancer registry data to the American Cancer Society (ACS) for use in determining demographic and regional/state variations in ductal carcinoma in situ (DCIS) & early stage breast cancer and treatment. Consents had been approved previously by the ACCR during the data submission process to NAACCR; however, the language in the consents has now been updated to be more clear about how many researchers are using the data and how the data are accessed.

The University of Kentucky, Kentucky Cancer Registry, is requesting ACCR data for the study of epidemiology of pediatric brain tumors in Appalachian states in comparison to non-Appalachian states. The Appalachian population is unique and relatively homogeneous, which provides an ideal group to develop an impactful genome-wide association study. ACCR received a subsequent extension in order to bring this request before the Board of Health. We ask for your consideration of this request so that Arkansas may be included in national cancer surveillance publications and data requests.

The University of Missouri (UM) had requested assistance from ACCR in reaching endometrial cancer patients. The Science Advisory Committee (SAC) approved it in the past and the Cancer Registry contacted patients to see if they would like to participate in the UM study. The list of consenting patients was sent to UM to follow-up with the patients individually for the study. UM is now requesting additional individual-level Cancer Registry data on consenting participants (demographics, cancer staging, histology, treatment, and vital status information) and aggregate data (demographics, staging, histology) on non-consenting participants.

A subcommittee of the Board, including Dr. Bass, Dr. Foster and Ms. Tapp, agreed to make a recommendation to the full Board.

A motion to approve the request was made by Dr. Foster. The motion was seconded by Ms. Tapp and the motion carried.

Other Business

Appointment to the ACCR

Rick D. Hogan, J.D., MPH, General Counsel, requested the President's approval of the Appointments to the ACCR Subcommittee. The Subcommittee would include Catherine Tapp, MPH, as Chairman, Clark Fincher, M.D., George Harper, J.D., Anthony Hui, M.D. and Beverly Foster, D.C.

A motion to approve an ACCR Subcommittee was made by Dr. Smith. The motion was seconded by Dr. Zini and carried.

Appointment of Phillips County Health Officer

Rick D. Hogan, J.D., MPH, General Counsel, on behalf of Dr. Bates, asked for approval of the recommendation for appointment of L.J. Bell as County Health Officer for Phillips County.

A motion to approve the appointment was made by Dr. Zini. The motion was seconded by Ms. Tapp and the motion carried.

Licensed Lay Midwife Statistical Report

David Grimes, M.D., Medical Director, Women's Health, reported on the annual statistical report reflecting perinatal outcomes of home births with Lay Midwife attendance. He reported

that for calendar year 2014, there were 245 home births by licensed lay midwives, to which there was attributed one perinatal death. There were 32 Intrapartum Transports and 5 Infant Transports after home delivery. There were 106 Antpartum Referrals and a total number of 353 cases.

Update on Rules and Regulations Pertaining to Body Art

Tom Jones, Senior Environmental Health Specialist, reported he had researched some of the disinfecting techniques that were being used in Scarification. The documents he provided are attached. He expressed some concern over the amount of time it takes for a scarification procedure to properly heal; as shown in the attached photographs. He stated, at this time, the research and discussion into the regulations focusing on scarification was ongoing.

The Rules and Regulations were continuing to be revised based on comments received from the Body Art industry and the Bureau of Legislative Research. The continued revisions will be brought back before the Board later this year for approval to begin the rulemaking process again. This gives the Subcommittee the opportunity to better understand the scarification procedure and what safeguards need to be put in place to protect the public and practitioners.

Update on Rapid Sequence Intubation

Greg Brown, Section Chief, Emergency Medical Services, updated the Board on Rapid Sequence Intubation (RSI). A recent event, involving a child under the age of eight (8) years old needing RSI, was brought to Dr. Bledsoe's and Dr. Smith's attention. In 2007, based upon the recommendation of Dr. Sneed, the Board voted that a medic was not allowed to preform RSI on a child under the age of eight (8) years old.

Today we still operate under this age restriction. Mr. Brown stated that the new Rules approved by the Board consider RSI a standard scope of practice for the paramedic and there is no age restriction within the Rules.

In order for a paramedic to preform RSI there is a lengthy learning process. First, EMS meets with the applicant's medical director. Then, they ensure that all paramedics go back through the operating room under supervision of an anesthesiologist or nurse anesthetist to practice a set number of skills; last, they are reviewed by the medical director. If all elements of the process are met then the medical director signs off, stating that they are able to perform that particular skill under their license. Once EMS receives the application, the staff reviews it to make sure appropriate continuing education has been done. After everything is reviewed, EMS meets with the medical director to ensure that everything has been done by the applicant.

Mr. Brown stated, the restriction of eight (8) years of age is still in place even though the new Rules would allow us to strike it.

Dr. Leibovich added that there are some reservations that people have with RSI, which caused the age restriction. He also asked in the last twelve (12) months, how many RSI have been attempted. He asked of those how many have been successful and have not been successful. Mr. Brown stated that unfortunately, since we do not provide this procedure in children, there is no data to support the practice in Arkansas. While this exists elsewhere, it would be difficult, if not impossible, to identify those children that would have needed RSI but did not receive it.

Dr. Smith asked if it would be reasonable to form a Subcommittee of the Board to research the data in more detail. Dr. Smith requested that Dr. Leibovich and Dr. Bledsoe be placed on that subcommittee.

It was agreed by the Board that a Subcommittee would be formed to review RSI in more detail.

Update on ADH report from the 90th General Assembly

Robert Brech, J.D., Chief Financial Officer, gave an update on the Legislative Session of the 90th General Assembly.

Avian Influenza Outbreak

Sue Weinstein, D.V.M., State Public Health Veterinarian, gave a presentation on the Avian Influenza Outbreak.

President's Report

Dr. Braden's President Report, "Health Status Plans for Improvement of Ouachita County and Beyond" was tabled until the July meeting.

Director's Report

Dr. Smith gave a brief report due to time restrictions. He stated that the Public Health Accreditation site visit was at the end of February and a few weeks ago the report was received. The report was generally very favorable and very complimentary. He stated there are over a hundred (100) different areas that were looked at and about eighty percent (80%) of those were deemed as fully met. There were nineteen (19) that were mostly met and six (6) that we only slightly met. However, there were no deficiencies reported. The Department has thirty (30) days to respond and/or correct any factual errors. That will be done and in most likely May they will make a determination on accreditation.

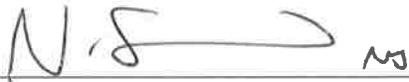
Dr. Smith announced that the Arkansas Public Health Association Conference would be held next month in Hot Springs and invited any members interested to attend.

Public Comments

David Mitchell, Alderman, gave a brief statement regarding Eureka Springs City Water and Resolution No. 653. Additional information was handed out at the meeting to all Board members. Alderman Mitchell was thanked for presenting his 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 12:15 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'N. Smith', written over a horizontal line.

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