

SPECIAL CALLED MEETING OF THE ARKANSAS STATE BOARD OF HEALTH
July 7, 2011

A “special-called” meeting of the Arkansas State Board of Health was held, by teleconference, on Thursday, July 7, 2011, in the Briefing Room of the Arkansas Department of Health, 4815 West Markham, Little Rock, Arkansas.

President Jones called the meeting to order at approximately 10:00 a.m. President Jones asked Dr. Halverson to call the roll.

Present

Paul Halverson, DrPH, MPH
Susan Jones, MD, President (phone)
Miranda Childs-Bebee (phone)
Lawrence Braden, MD (phone)
Clark Fincher, MD (phone)
Alan Fortenberry, P.E. (phone)
Larry Fritchman, DVM
George Harper, JD
Anthony N. Hui, MD (phone)
Tom Jones, RS
Linda Lehing
Dr. Alexander Registre (phone)
Mary Beth Ringgold (phone)
Rev. Dwight Townsend
Patricia Westfall-Elsberry, OD (phone)
Terry Yamauchi, MD (phone)
Dr. James Zini, DO (phone)
Rick D. Hogan, Legal
Robert M. Brech, Legal
Reginald A. Rogers, Legal
Dr. Joe Bates, ADH
Dr. Nathaniel Smith, ADH
Stephanie Williams, ADH
Ed Barham, ADH
Katheryn Hargis, ADH
Shirley Louie, ADH
Nancy Cox, Legal
Chris McNeal, Legal

Absent

Glen “Eddie” Bryant, MD
Dr. Marvin Leibovich, MD
John Richard Page, PD
Anika Whitfield, DPM
Dr. Joe Thompson
Peggy Walker, RN
Jim Lambert

Dr. Paul Halverson conducted a roll call and advised President Jones that there was a quorum.

**SPECIAL CALLED MEETING OF THE ARKANSAS STATE BOARD OF HEALTH
MINUTES
July 7, 2011**

NEW BUSINESS

*Proposed Emergency Rule Pertaining to Lead-based Paint Activities
And Proposed Adoption of a Permanent Rule Pertaining to Lead-based Paint Activities*

President Jones called the meeting to order and presented the items on the agenda, “the Proposed Emergency Rule Pertaining to Lead-based Paint Activities” and the “Proposed Adoption of a Permanent Rule Pertaining to Lead-based Paint Activities.” President Jones asked Dr. Halverson to give the background on this rule. Dr. Halverson responded that Mr. Brech would do this.

Mr. Brech stated that the reason the special meeting was called was that in the 2011 legislative session Act 1011 was passed and that transferred the lead-based paint program from the Department of Environmental Equality to the Department of Health. It had an emergency rule attached and that Act went into effect last Friday, July 1. The intent was to get this emergency rule passed to minimize any lapse in program activities, and we took the Department of Environmental Equality’s rule and tailored it to the Board of Health and the Department of Health. There shouldn’t be any substantive changes to people who are being regulated and we desperately need an emergency rule at this point to minimize any impact on the industry. While this emergency rule is in effect, and it can only be in effect for 120 days, we would be going through the regular rule-making process to permanently promulgate a rule. At this point we need an adoption of this emergency rule. The only change that has been made since you received your packet – the Governor is out of town today and will not be able to sign it - is the effective date has been changed to July 8th.

Mr. Fortenberry asked Mr. Brech if it was correct that the rule had not been changed from DEQ's regulation, and Mr. Brech stated that was correct. The only substantive changes that were made were just to tailor it to the Health Department and to the Board of Health.

Dr. Yamauchi asked Mr. Brech why it was an emergency, and Mr. Brech stated that the program was transferred from Environmental Quality to the Department of Health effective July 1st. The law said until rules were passed any applicable or any current license would stay in effect, but we would not be able to regulate the industry or license anybody else who wanted to come into the industry. We wouldn't have that authority and it would take at least until October or November to get that passed. So there would be a four or five-month period where people could not enter the industry if they wished to, and we would not be able to regulate those who were currently in the industry.

Dr. Yamauchi asked if there was a financial burden to the Health Department and Mr. Brech stated that this was another reason to pass an emergency rule. This is a program that we will be administering for environmental protection agency on a federal level. There were funds transferred from ADEQ to us to help run the program. In addition to that, we are trying to make grant applications and the EPA has made commitments to us, and the quicker we can get this program going the quicker we can get the federal money. So there shouldn't be any impact.

President Jones asked if we were ready to adopt the emergency rule and Mr. Brech stated that that is correct. Mr. Brech added that there is an emergency clause near the last page that we need to reference, and since it is an emergency rule, the Board will have to adopt it and then make a statement of why this is necessary.

Mr. Harper moved that the emergency rule be adopted with the following finding: That it is found and determined by the State Board of Health that lead and lead-based paint have been

determined to be a human health concern posing an immediate danger to children, families, and the environment, and that this rule is immediately necessary to prevent irreparable harm to children in this state. Therefore, an emergency is declared to exist and this rule being immediately necessary for the preservation of the public health, that it become effective on July 8, 2011.

President Jones asked for a second. Dr. Hui seconded the motion and the motion carried.

President Jones asked for a motion for the adoption of a permanent rule pertaining to lead-based paint activities. Mr. Brech stated that upon the adoption of the emergency rule it will be necessary to adopt a permanent rule during this 120 day period. So, we are asking permission to take this draft as a permanent rule and then begin the administrative process to get that done within the 120 days.

Mr. Harper moved that the Board resolve to permit the Health Department to move forward with the Administrative Procedure Act. Dr. Fritchman seconded and the motion carried.

President Jones asked if there was further discussion. Mr. Harper stated that he wanted to take this opportunity to commend the staff at the Health Department for the development of this rule. I know it was very difficult to transfer all the references from ADEQ to the Health Department, and I think they did an outstanding and timely job.

President Jones responded by thanking the staff on their expertise and dedication in this matter.

Dr. Halverson thanked the Board members for taking time today to be part of this special called meeting.

The meeting was adjourned at approximately 10:15 a.m.