

**MEETING OF THE
ARKANSAS STATE BOARD OF HEALTH
July 24, 2014**

MEMBERS PRESENT

Miranda Childs Bebee, D.D.S., President
Lawrence Braden, M.D., President-Elect
Nathaniel Smith, M.D., MPH, Secretary
Glen "Eddie" Bryant, M.D.
Clark Fincher, M.D.
Beverly Foster, D.C.
Alan Fortenberry, P.E.
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.
Jim Lambert (via phone)
Marvin Leibovich, M.D.
Catherine Tapp, MPH
Joe Thompson, M.D., MPH
Peggy Walker, RN-BC, MSN, CADC (via phone)
Patricia Westfall, O.D. (via phone)
Anika Whitfield, D.P.M.
Terry Yamauchi, M.D.
James Zini, D.O.

Members Absent (excused)

John Richard Page, P.D.
Mary Beth Ringgold
Robbie Thomas Knight, PhD

GUESTS PRESENT

Stephanie Williams, Deputy Director for Public Health Programs
Joseph Bates, M.D., Deputy State Health Officer
Robert Brech, Chief Financial Officer
Rick D. Hogan, General Counsel
Reginald Rogers, Deputy General Counsel
Elizabeth Pitman, Deputy General Counsel
Mike Wilson, EOC, Technical Manager
Katheryn Hargis, Governmental Affairs
Kerry Krell, Communications
Jennifer Dillaha, M.D., Medical Director for Immunizations
William C. Temple, Branch Chief, Trauma/Injury and Violence Prevention
Bernard Beville, Section Chief, Radiation Control Section
Angela Minden, Radiation Control Section
John Senner, Director, Center for Public Health Practice
Michelle R. Smith, Ph.D., MPH., Director of Minority Health & Health Disparities
Todd Maxson, M.D., Medical Trauma Consultant
Anne Meeks, ADH Intern
John Alison, ADH Intern
Sidney Ward, AR Ambulance Association
Laura Bailey, Section Director, Alcohol Testing Program
James Myatt, P.D., Section Chief, Pharmacy Services
Glen Baker, M.D., Director, Public Health Laboratory
Ralph Wilmoth, Section Chief, HIV/STD
Bob Higginbottom, Director, Protective Health Codes
Dirk Haselow, M.D., Section Chief, Infectious Disease

MEETING OF THE STATE BOARD OF HEALTH

The Quarterly Meeting of the Arkansas State Board of Health was held Thursday, July 24, 2014, in the Charles Hughes Board Room at the Freeway Medical Building in Little Rock, Arkansas. President Childs Bebee asked those members participating by conference call to give their names. Dr. Susan Jones, Dr. Patricia Westfall, Jim Lambert and Peggy Walker responded. President Childs Bebee reported there was a quorum and called the meeting to order at approximately 10:00 a.m.

President Childs Bebee turned the meeting over to Dr. Smith. Dr. Smith began by stating that he would like to recognize Dr. Joseph Bates. Recently, Dr. Bates, the Department's Deputy State Health Officer was awarded the Asklepion Award by the Arkansas Medical Society for his monumental contributions to health care in our state. The award is named after the Greek God of medicine and annually recognizes a physician who promotes the art and science of medicine and the betterment of public health. It embodies the values of the medical profession through leadership, service, excellence, integrity and ethical behavior and serves the community through dedicated medical practice. Dr. Bates' list of public health accomplishments are impressive with a career that spans over more than five decades. His many contributions towards establishing a school of public health and training our staff will continue to make a difference in the health of Arkansas for many years to come.

APPROVAL OF MINUTES

President Childs Bebee entertained a motion for approval of the minutes of the April 24, 2014 Quarterly Meeting. A motion was made and the minutes for April were approved as presented.

"Ongoing Efforts to Encourage Breast Feeding in Arkansas"

Stephanie Williams, Deputy Director for Public Health Programs, stated at the close out of the fall workshop the board talked about the benefits of breastfeeding for both mother and baby. At that time there was also some discussions about the Department's WIC Program. There was some concern that because the Department does provide formula that it might send the wrong message about the importance of breastfeeding. Therefore, she was giving this presentation to clarify the Department's message about breastfeeding to the Board.

Ms. Williams thanked the Board for the opportunity to talk about the work that the Department is doing to reestablish breastfeeding as the norm for infant feeding in our state, along with the WIC program and other programs and partners. The Healthy People 2020 Report states that 81.9% of mothers will breastfeed by the year 2020 in the Nation. Some states have already exceeded that goal. Arkansas is currently right at 57.7%. By comparison, the United States average is 76.5%. However, it drops during and after the first year of life. Twenty-seven percent (27%) in the Nation and only fourteen percent (14%) in Arkansas of mothers are still breastfeeding after the first year of life. In terms of states, Arkansas fairs pretty well for the Southern states. But, Ms. Williams said, the numbers indicate that there is still quite a bit of work for the WIC program to do in Arkansas.

Ms. Williams stated that the Department wanted the WIC program to be used as a program that supports breastfeeding by providing educational support and tools needed to be successful at breastfeeding.

OLD BUSINESS

President Childs Beebe stated that with such large agendas at each meeting it was suggested to have subcommittees assigned to each agenda item that requires a vote. The subcommittee will then report to the Board on that agenda item. That was agreed upon.

Final Approval of Rules & Regulations Pertaining to Arkansas Trauma Systems

Rick Hogan, General Counsel reported that these Rules and Regulations have gone through a very lengthy process. Public Comment periods have been completed and the approved Rules were taken to the appropriate Legislative Committees. The Trauma Section agreed to extend the time to receive comments so that concerned parties could comment on the Rules. On July 15, 2014, the Department received some additional comments from the Arkansas Ambulance Association. Those were included in the draft given to the Board today. An agreement as to the exact language was not reached until yesterday, July 23, 2014. Mr. Hogan stated that after reviewing the proposed suggested changes, he felt that they were within the public notice and did not warrant restarting the public comment period. Mr. Hogan added that the Board could go forward and adopt the changes awaiting the approval of the Legislative Committees.

Todd Maxson, M.D., Medical Trauma Consultant was present to explain any questions and gave a brief summary of the changes made. They included the definition of the "Advanced Life Support" on page six (6) which was deleted. As well as language added to the definition of "Trauma System" and the language in Section B; matching page thirty-two (32) to page twenty-two (22).

There were some concerns raised regarding getting the information to the Board members in a timely fashion. Mr. Sydney Ward, President of the Arkansas Ambulance Association stated that he took full responsibility for the time delay.

Dr. Leibovich proposed a motion to move leaving the Rules and Regulations as they were prior to the meeting, allowing the Board to go back and look over the changes. Mr. Fortenberry seconded for discussion.

Mr. Harper spoke against the motion stating that he was very aware of the process and how fragile it can be with the Legislative Committees. He stated that if the Department takes this to the Committees with a continuing problem it will likely be postponed for another three (3) months. He added that the staff that is familiar with the Rules and Regulations are supporting it and saying that there is no impediment to public health. He felt that the Board should vote against the motion and move to a final motion to approve. Dr. Smith and Peggy Walker agreed with Mr. Harper's comments.

After some discussion, there was an amended motion made and seconded. The Board then voted on the amendment to the motion to retain Advanced Life Support only in the first sentence. The majority of the Board then voted against the amendment and the motion.

Finally, Dr. Childs Beebe asked for a motion for the Rules as presented. Mr. Harper made a motion to approve the final rules subject to review by the Legislative Committees. Dr. Whitfield seconded the motion and the motion passed with two voting against the approval.

Final Approval of Rules & Regulations
Pertaining to Reportable Disease

Dirk Haselow, Section Chief, Infectious Disease, requested final approval of the Rules and Regulations pertaining to Reportable Disease. He stated that the substantive changes are in the title of the rule; changing from Rules and Regulations pertaining to Communicable Disease to Rules and Regulations pertaining to Reportable Disease. This was done because several things listed are not communicable. Dr. Haselow stated there were no comments during the public hearing.

A motion to approve was made by Dr. Thompson and seconded by Mr. Harper. The motion carried.

Final Approval of Rules & Regulations
Pertaining to Immunization Requirements

Rick D. Hogan, General Counsel, stated he was requesting final approval of the Rules and Regulations pertaining to Immunizations Requirements. He stated that comments were received during the public comment period. A copy of all comments was provided to Board members.

Jennifer Dillaha, M.D., Medical Advisor for Health Literacy and Communications reported the only change to the Rules was to require that the Medical Director of Immunization be the person that approved medical exemptions.

Dr. Smith made a motion to approve the rules. Dr. Zini seconded the motion and the motion passed.

Proposed Rules & Regulations
Pertaining to Vital Records

John Senner, PhD, Director, Center for Public Health Practice, asked the Board for approval of the Rules and Regulations Pertaining to Vital Records. He stated these revisions were brought about by the legislature when they adopted Act 171 of 2013. The revisions clarify the requirement to report all induced termination of pregnancy on the revised form presented. Other substantive revisions were made such as spelling errors.

Mr. Fortenberry made a motion and it was seconded by Dr. Zini. The motion passed.

Revisions to the Rules & Regulations
Pertaining to Control of Sources of Ionizing Radiation

Rick D. Hogan, General Counsel, brought to the Board's attention that this was one of the items that was taken to a Subcommittee prior to the consideration of the Board. The subcommittee consisted of President Childs Beebe, Peggy Walker and Dr. Foster.

Bernard Bevill, Section Chief, Radiation Control Section, reported that the public comments had been completed and they received two (2) comments addressing initial registration requirements and reporting changes regarding x-ray machines. There were also substantive changes made at that time. They restored the thirty (30) day registration of equipment and also the ten (10) day reporting period for changes. It was requested that the Section be given permission to begin the public comment period again.

A motion was made by Dr. Fritchman. The motion was seconded by Mr. Fortenberry and the motion carried.

NEW BUSINESS

Proposed Rules & Regulations
Pertaining to Controlled Substances

James Myatt, P.D., Section Chief, Pharmacy Services, reported that the purpose of amending the rules is to comply with Act 1331 of 2013. This allows electronic prescribing of controlled substances if issued in compliance with federal regulations.

Rick D. Hogan, General Counsel, brought to the Board's attention that this was also one of the items that was taken to a subcommittee prior to consideration by the Board. The subcommittee consisted of Dr. Hui and Dr. Page.

Dr. Hui stated that he and Dr. Page agreed to move forward and seek the Board's approval of the Rules as proposed.

Dr. Whitfield made a motion to approve. The motion was seconded by Peggy Walker and the motion passed.

Proposed Rules & Regulations
Pertaining to the List of Controlled Substances

James Myatt, P.D., Section Chief, Pharmacy Services, proposed that four (4) drugs be added to the List of Controlled Substances. The first drug was MEC; a drug that Dr. Smith added by Emergency Rule after being notified by Washington and Madison Counties' Deputy Prosecuting Attorneys. The second drug, Perampanel, was added to Schedule III. Alfaxalone was added to Schedule IV. Fourth, Epizolam was added to Schedule I.

A motion to approve was made by Dr. Zini and seconded by Dr. Thompson. The motion carried.

**Proposed Amendments to Arkansas
Regulations for Breath Ignition Interlock Devices**

Laura Bailey, Branch Chief, Alcohol Testing Program, reported that the Federal Government recently issued new model specs for the devices. Therefore, to bring the regulations in line with the federal update and the technology involved, Ms. Bailey asked the Board to approve the proposed amendments to the Arkansas Regulations for Breath Alcohol Ignition Interlock Devices.

Dr. Hui reported that this amendment was another of the items that was taken to a subcommittee prior to the consideration of the Board. The subcommittee consisted of Dr. Hui and Dr. Page.

Dr. Hui stated that he and Dr. Page agreed to move forward and seek Board approval. Dr. Hui made a motion to approve. Mr. Harper seconded the motion and it passed.

**Proposed Amendments to Rules & Regulations
Pertaining to Testing of Newborn Infants**

Glen Baker, M.D., Director, Public Health Laboratory, reported that the Legislature passed Act 428 of 2013, which authorized the Department to expand its testing capability to include genetic disorders. The Rules were changed to add severe combined immunodeficiency disorder (SCID). It also prevents a disorder-by-disorder approach to the law and allows the Board to add conditions as recommended by the Discretionary Advisory Committee on Heritable Disorders in Newborns and Children. The rules also address delays in Newborn Screening Sample Delivery to Public Health Laboratories.

Dr. Thompson added comments regarding the costs of such tests. Dr. Baker stated that they will go before the Insurance Commissioner and Medicaid for approval of the fee schedule and have hearings before both Legislative committees.

A motion was made by Dr. Hui and seconded by Dr. Zini. The motion carried with one abstention by Dr. Thompson.

**Proposed Rules & Regulations
Pertaining to Reportable Disease**

Ralph Wilmoth, Section Chief, HIV/STD, stated that he is asking the Board to make a slight amendment to Section XXI of the Communicable Disease Rules and Regulations. These rules require that a second serologic test for Syphilis be performed on women during their third trimester.

Dr. Hui reported that a subcommittee met on July 18, 2014, consisting of Dr. Page and Dr. Hui and agreed to bring this item to the full Board.

Dr. Hui made a motion to move for approval. The motion was seconded by Dr. Leibovich. The motion passed.

Proposed Consent Order
ADH v. Pellegrino

Rick D. Hogan, J.D., MPH, General Counsel, reported that Mr. Pellegrino's job was terminated based on misconduct and violations of the Rules and Regulations for Emergency Medical Services. On May 2, 2014, the Department issued a Notice of Hearing. The hearing was scheduled for June 5, 2014, to determine what if any licensure violations had occurred. On that date Mr. Pellegrino, through his attorney, agreed to the proposed Consent Order.

Mr. Hogan asked the Board to adopt the Consent Order provided. Dr. Leibovich made a motion to accept. The motion was seconded by Dr. Zini and passed.

Proposed Resolution Approving
Refinancing for the Public Health Lab

Robert Brech, Chief Financial Officer, stated that, like in the past, the Board must approve a resolution giving the Department the authority to enter into contracts for approval of financing. The initial loan taken for the Public Health Lab was \$26 million. Since that time it has been paid down to about \$9.5 million. The Department was notified in May that it would have the opportunity to refinance the loan. This may make the loan paid by 2019; with an original date set for 2026. Refinancing could potentially save tax payers of Arkansas \$800,000.

Mr. Brech asked the Board to approve the Resolution. Dr. Fritchman made a motion to approve the resolution and Dr. Whitfield seconded. The motion was carried.

Proposed Appointment to the State
Committee of Plumbing Examiners

Bob Higginbottom, Director, Protective Health Codes, stated that the State Board of Examiners is appointed by the Board. The Committee consists of seven (7) voting members.

Mr. Higginbottom asked the Board to reappoint two members to the Committee whose terms expire this month. Those members were Mr. Paul Graham of Heber Springs; master plumber, and Ms. Debbie Faubus-Kendrick; consumer representative. Both have served only one term and are willing to serve another four year term.

Dr. Zini made a motion to reappoint and Ms. Walker seconded. The motion carried.

OTHER BUSINESS

Rick D. Hogan, J.D., MPH, General Counsel, presented a Declaratory Order to the Board for their approval. Mr. Hogan clarified that the complaint was filed against the Department, and not the Board. Legal representation is being received for the Department from the Arkansas Attorney General's Office, Jennifer Merritt. Ms. Merritt could not be present at the meeting.

Mr. Hogan explained that the Department is not enforcing the licensing provisions against those practicing natural hair braiding at this time. He stated the Department is awaiting pending legislation to be adopted by the Legislature and enacted as law.

Mr. Hogan stated that, together with the Attorney General's Office, the Department is asking the Board to accept this Declaratory Order until the issue is resolved through the Legislature and legislation is adopted.

Mr. Harper made a motion to accept the Order and Dr. Zini seconded. The motion passed.

Next, Rick D. Hogan, J.D., MPH, General Counsel, introduced interns Annie Meeks and John Alison. Mr. Hogan gave the meeting over to Dr. Bates to introduce the STED Scholars; Sydney Holderman, Jason Lockman and Catherine Williams.

President's Report

The President had no further business to report.

Director's Report

The Director had no further business to report and the meeting was adjourned at approximately 12:20 p.m.

Respectfully submitted,



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