

**MEETING OF THE
ARKANSAS STATE BOARD OF HEALTH
January 23, 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, Former President
Alan Fortenberry, P.E.
Larry Fritchman, D.V.M.
George A. Harper, J.D.
Anthony N. Hui, M.D.
Susan Jones, M.D.
Thomas Jones, R.S.
Jim Lambert
Marvin Leibovich, M.D.
Alexander Rejistre, Sr. D.C. (via phone)
Mary Beth Ringgold
Catherine Tapp, MPH
Joe Thompspon, M.D., MPH
Rev. Dwight Townsend (via phone)
Peggy Walker, RN-BC, MSN, CADC
Patricia Westfall-Elsberry, O.D.
Terry Yamauchi, M.D.
James Zini, D.O.

Members Absent (excused)

John R. Page, P.D.
Anika Whitfield, D.P.M.

GUESTS PRESENT

Joe Bates, MD, Deputy State Public Health Officer
Stephanie Williams, Deputy Director for Public
Health Programs
Ann Purvis, Deputy Director for Administration
Robert Brech, Chief Financial Officer
Rick D. Hogan, General Counsel
Reginald Rogers, Deputy General Counsel
Elizabeth Pitman, Deputy General Counsel
Leslie Lovett, Arkansas Board of Health Liaison
Donnie Smith, Director, Center for Health Protection
Mike Wilson, EOC, Technical Manager
Katheryn Hargis, Policy Director, Office of
Governmental Affairs
Cathy Flanagan, Director of Health Communications
& Marketing
Greg Brown, EMS, Section Chief
Renee Mallory, Health System Licensing &
Regulation, Branch Chief
Hilda Douglas, Assistant Section Chief,
Immunizations
Jeff Stone, P.E., Director, Engineering
Bradley Planey, Associate Branch Chief, Family
Health
J. Terry Paul, R.S., Chief, Environmental Health
Xaiver Heard, Director of Human Resources

MEETING OF THE STATE BOARD OF HEALTH

The Meeting of the Arkansas State Board of Health was held Thursday, January 23, 2014, in the Charles Hughes Board Room at the Freeway Medical Building in Little Rock, Arkansas. President Fincher asked those members participating by conference call to give their names. Dr. Alexander Rejistre, Sr. and Rev. Dwight Townsend responded. President Fincher reported there was a quorum and called the meeting to order at approximately 10:00 a.m.

The meeting was turned over to Dr. Smith and he stated that the all board members received two public health books. One being *The Public's Health* which is a history of health in general and specifically the public health over the last hundred years in Arkansas. The other book was titled *Arkansas's Big Health Problems*.

Dr. Smith went on to state that this was a transition meeting for the Board; detailing Dr. Fincher's accomplishments. Under his presidency the Board and the Department of Health have had a very productive and effective year. More than 30 years ago the Arkansas State Board of Health and more specifically Dr. Charles Hughes for which this boardroom is named inserted these words into the Board's bylaws. "The Board acts as an advocate for all Arkansas citizens particular those whose health are at greatest risk; the young, the elderly, the poor, the medically underserved and those exposed to environmental hazards. Through their expertise and knowledge of health problems throughout the State Board members act to inform the public major health needs and to service spokespersons for the programs of the Department of Health." Directly as a result of Dr. Fincher's leadership the Board adopted a resolution, strongly urging the State of Arkansas to participate in the expansion of the Medicaid program under the Patient Protection and Affordable Care Act. The expansion has led to over 75,000 Arkansas getting health care coverage through the private option, over half of which are under the age of 40. Dr. Smith mentioned that President Fincher's leadership of this board and as a local physician has been indispensable in leading to better health care. Some of Dr. Fincher's other accomplishments have included the first significant revision changes to our EMS Rules in more than a decade. As well as the first significant investigation of a sedation dentist who had utilized hampered files of controlled medications potentially exposing 85 patients to infectious disease. The Board also monitored the significant oil spill in the Mayflower community. Under his leadership the Department has continued to expand protections through fluoridation of all Arkansas water sources. More than 90% of public water systems have currently complied with the fluoridation of water requirements.

Dr. Smith added on a personal note he wanted to thank Dr. Fincher for his leadership in active engagement and for his passion and interest. Dr. Smith presented Dr. Fincher with a certificate and thanked him again for his leadership and continued involvement in the Board. Dr. Fincher thanked Dr. Smith, the other board members and the Department for all they do for Arkansas.

Miranda Childs Beebe, D.D.S., was introduced as the new President of the Board and Lawrence Braden, M.D., was introduced as President-Elect.

APPROVAL OF MINUTES

President Childs Beebe entertained a motion for approval of the minutes of the October 24, 2013, quarterly meeting and the December 18, 2013 special meeting. Motions to approve both sets of minutes were made. The motions were seconded and the minutes for October and December were approved as presented.

NOMINATING COMMITTEE REPORT

Glen "Eddie" Bryant stated there was a telephone conference held January 10, 2014, to consider the nomination of President-Elect to the Board. The Board unanimously recommended Lawrence Braden, M.D. A motion was made to vote, seconded and was approved by the nominating committee.

OLD BUSINESS

Final Adoption of Proposed Revisions to the Rules Pertaining to Immunization Requirements

Donnie Smith, Director, Center for Health Protection and Hilda Douglas, Assistant Section Chief, Immunizations, requested the Boards final approval of the proposed revisions to the Rules Pertaining to Immunization Requirements. There were no questions.

Dr. Fritchman made a motion to accept and Dr. Fortenberry seconded. The motion passed.

Final Adoption of Proposed Revisions to the Rules Pertaining to Emergency Medical Services

Greg Brown, Section Chief, EMS, presented the final adoption of the proposed revisions to the rules pertaining to Emergency Medical Services. Provided to all members was a time-line of the procedures that have been followed. Summarizing, Mr. Brown stated that the process of revision has been in the process for well over three (3) years and included involvement from the following groups, Arkansas Ambulance Association, Arkansas Ambulance Association Governmental Affairs, Arkansas EMT Association, Governor's Advisory Committee for EMS, EMS Training Committee, Air Medical Subcommittee, EMS Data Subcommittee, EMS educational institutions, EMS Services and Providers, EMS Subcommittee of the Trauma Advisory Committee, Section of Trauma and Injury Prevention, Section of Pharmacy Control and the Section of Health Facility Services. In April 2013, the rules were presented to the Board but there was an issue with the marked-up version. Due to that the Board held a special meeting in May, due to the potential delay in implementation of the new National Scope of Practice for EMS providers and Arkansas being one of the only states to not have adopted it into practice. Not having adopted a National Scope of Practice means Arkansas licensed EMS professional may not perform certain skills required for optimal patient care. The Board approved the rules to move forward with the administrative process. Mr. Brown thanked the Board for their willingness to hold a special meeting. A Public Hearing was held and there were no attendees or comments filed. Next they presented the rules to the Joint Committee on Public Health and Welfare and were approved to move to the Joint House and Senate Rules Committee. Two items originally intended to be in the Rule were over looked when the Rules went through in the previous

meetings, those being the Trauma Triage Guidelines and the EMS Equipment list. These items were added as addendums and in order to be transparent the process was started over. Again, there was a Public Hearing regarding EMS Rules and Regulations to include all documents. There were no attendees to this hearing and no comments were filed. Since then the Rule has been back before the Joint Committee on Public Health and Welfare and was approved to move to the Joint House and Senate Rules Committee and Legislative Rules Committee and was approved without comment.

Mr. Brown stated that there had been some questions arise from Dr. Leibovich. A hand-out was passed out to all members pertaining to the changes that Dr. Leibovich pointed out. These changes were not-substantive, where easily changed and they were able to be changed without having to start over. The first change on page 20 had to do with Medical Transfer Service with regard to the terminology "same-day." The clarification will be made to "within 24 hours". On page 30, there was clarification when referring to survival equipment. On page 47, was the change to say "successfully challenge." On page 53, there were three grammatical errors changed; one from "assure" to ensure" another from "have met" to "meet" and from "have submitted" to "submit". On page 62, "Legend Drug" was identified as "Prescription Drug" and under the Violations Section the word, etc. was removed. Lastly on page 69, there was a duplicate entry under the Violations Section and that entry was deleted. He then presented the Rule revision for Emergency Medical Services for the Board's final approval.

Dr. Leivovich thanked Mr. Brown and others for their help of answering and revising some of his issues. However, he stated that there are still some issues that he has concerns about. His concern were should this be approved with the agreement that changes would be made, knowing that some things are wrong, just to expedite the process. He asked how the Board would like to continue.

Mr. Fortenberry stated that he agreed with Dr. Leivovich's premise, although he agreed that there are parts of this Rule that the Department and the State need. Mr. Fortenberry added that he would propose the Board to move now to get those parts in place and then make improvements upon that base. Other discussion was held between the Board regarding moving forward with the Rule. It was then decided that the changes could be made as an improvement to the Rule.

Dr. Fincher made a motion to move forward with the adoption of the proposed Rules and Regulations with the changes made pertaining to Emergency Medical Services. Mr. Fortenberry seconded the motion. One member abstained and another opposed. The motion was approved to move forward.

Final Adoption of the Rules Pertaining to Public Water Systems

Jeff Stone, P.E., Director, Engineering Section, Environmental Health Branch stated that during the July Board meeting they were given the approval to proceed with the revision of the Public Water System Rules and Regulations. The primary purpose of which was to modify regulations, to specify the national certification to components of fresh water systems that were required to comply with a new "lead free" definition. A public hearing was held in October with no comments were received. Mr. Stone requested the Board to give final approval for these revisions.

Mr. Fortenberry made a motion. Dr. Zini seconded the approval and the motion passed.

**Repeal of Administrative Procedures of the
Arkansas Board of Health and the Arkansas Health Department**

S. Elizabeth Pitman, J.D., MPH, Deputy General Counsel stated that she came before the Board in October to ask permission to begin the process of having the Administrative Procedures repealed. The public comment period ran, a public hearing was held and no comments were received. The proposed Repeal of the Rule was presented to the Joint Committee for Public Health, Welfare and Labor, and to the Legislative Council. She requested that the Board votes to finalize the repeal.

Mr. Harper made a motion to approve the repeal. Dr. Zini seconded the motion and it was so moved.

**Final Adoption of Rules Pertaining
to Communicable Disease**

Donnie Smith, Director, Center for Health Protection asked the Board for final approval of the Rules and Regulations to Communicable Disease. The proposed change would require that a second serologic test for Syphilis be performed on women during the third trimester ideally at 28 to 32 weeks gestation. All the steps in the administrative rule making process have been completed and there were no comments. Mr. Smith asked the Board for approval.

Dr. Fincher made a motion to adopt and Dr. Zini seconded. The motion carried.

NEW BUSINESS

Proposed Rules Governing Home Visitation Programs

Bradley Planey, Associate Branch Chief, Family Health reported that he asking the Board members to adopt the Proposed Rules Governing Home Visiting Programs in Arkansas as authorized by Act 528 of 2013. The Department of Health, Department of Human Services and the State Child Abuse and Neglect Prevention Board developed these rules for the Boards consideration. The purpose of these rules is to set guidelines, standards and reporting activities for all programs that provide home visitation services that are voluntary family-focused services or parents that are expecting, parents with an infant, toddler, or a child up to kindergarten.

Mr. Fortenberry made a motion to proceed with the administrative procedures. Dr. Fincher seconded the motion and it carried with two opposed.

**Proposed Rules Pertaining to
Communicable Disease-Reporting List**

Donnie Smith, Director, Center for Health Protection, came before the Board asking for permission to begin the administrative procedures process pertaining to the Communicable Disease Reporting List. Some of the changes mentioned were formatting, additions, wording and deletions. It was noted that these deletions are still important to Public Health and may need

to be monitored in the future again. There were also changes made to make Arkansas consistent with other states.

Ms. Walker made a motion to accept and Dr. Bryant seconded the motion. The motion was so moved.

Proposed Rules Pertaining to General Sanitation

J. Terry Paul, R.S., Chief Environmental Health Branch stated that he was before the Board to ask for permission to move forward with the procedures to update the General Sanitation Rules. Act 1470, of the last general session updated and clarified what conditions are required to connect to public sewer.

Dr. Fortenberry moved to approve and to move forward with the administrative procedures, Mr. Jones seconded and the motion carried.

Proposed Rules Pertaining to Arkansas Trauma Systems

William C. Temple, J.D., Branch Chief, Injury Prevention and Control, this proposal was tabled until the next Board meeting.

OTHER BUSINESS

Approval of Resolution for Stipend and Travel Reimbursement of Arkansas State Board of Health Members

Ms. Walker made a motion for the stipend and travel reimbursement to be approved by the Arkansas State Board of Health authorize expense reimbursement for the performance of official Board duties to the allowable amount authorized by law for the calendar year 2014. Dr. Zini seconded the motion and it passed.

Appointment/Reappointment of [Sub] Committees for the Board of Health [Including Ad Hoc Committee for NICU]

Rick D. Hogan, J.D. MPH, Chief General Counsel stated that if any members wanted to be added to new committees that it be known. He stated that a NICU Advisory Committee, which was put together under Dr. Halverson's leadership, would need to be formed. It was asked that the President appoint Mr. Harper, Dr. Thompson, Dr. Hui, Dr. Fincher and Mr. Lambert, Dr. Yaumachi to assist in forming a NICU Committee. It was explained that a subcommittee of the Board was needed in order to make a recommendation to the full Board on the definition of the NICU Level System.

Appointment/Reappointment of County Health Officials

Dr. Joe Bates, Deputy State Health Officer/Chief Science Officer stated that each county appoints a County Health Officer. Each officer must be nominated by a local judge and

approved by the director. Dr. Bates recommended that the Board appoint Dr. Stanley Bradshaw of Cross County, Dr. Samantha Hatfield of Lawrence County, Dr. Felecia Brown of Lincoln County, Dr. Valencia Pirtle of Mississippi County and Dr. James Carter of Pope County.

A motion was made to accept the nominations. Dr. Zini seconded the motion and it passed.

**Update Regarding Emergency Rule Adoption
for Advisory Board for Interpreters Between Hearing Individuals
and Individuals who are Deaf, Deafblind, Hard of Hearing, or Oral Deaf**

S. Elizabeth Pitman, J.D., MPH, Deputy General Counsel updated the Board on the Emergency Rules. She reminded the Board that they voted in December to begin the rule making process and to allow an emergency rulemaking. She stated that the emergency rule and regular rulemaking had been filed and the public hearing will be held on January 31, 2014. The public comment period will end in early February and they are hopeful that they will the final rules to the Board in April.

**Update on Proposed Rules Pertaining to
Dental Hygienist Serving Underserved Areas**

Robert Brech, J.D., Chief Financial Officer updated the Board stating that a proposal has been agreed upon. The proposal would take all the school districts in Arkansas, using data given to the Board to show the areas where students receive reduced-free lunches. This data shows where the underserved areas are. In order for Tier I to move into Tier II all schools would have to be serviced, which causes some concern.

Mr. Brech stated that he would like to propose, Senator Johnson's proposal, to draft a waiver provision under the Rule in which the Director could waive a move to another tier. Dr. Smith added how important it is to get this in place and begin to serve those children in need.

Dr. Fincher made a motion to accept the proposal as a draft with the provision of the waiver of the Director and to move forward with the administrative procedures. Dr. Zini seconded and the motion carried.

**Update on Final Adoption of Rules
Pertaining to Communicable Disease- TB**

Robert Brech, J.D., Chief Financial Officer stated that the Board passed the TB rules in October. What that did was remove the requirement of Home Health Agencies and it workers from the requirement of being tested. Mr. Brech brought the Rules to both committees and they were appreciative of the revision.

**Update on Proposed Findings of Fact, Conclusions
of Law and Order to Watson Chapel Water Association**

Reginald A. Rogers, J.D., Deputy General Counsel updated the Board by stating that the Watson Chapel Water Association had submitted the plans to Delta Dental to properly fluoridate. Those plans have been accepted and monies have been granted to Watson Chapel. However, there are some objections to the contract. Mr. Rogers stated he will update the Board at the April meeting on the progress that has been made.

Presentation Regarding “Ongoing Efforts to Encourage Breast Feeding in Arkansas”

Stephanie Williams, Deputy Director for Public Health Programs presentation on the Ongoing Efforts to Encourage Breast Feeding in Arkansas was table until the next meeting due to time constraints.

Presentation Regarding Newborn Screening

Dr. Glen Baker, Director, Public Health Laboratory reported on the timeliness of the samples sufficient to the laboratory’s testing and on a seven day a week bases. The existing rules and regulations has increased the prep time to approximately 24 to 72 hours from birth to have those samples submitted to the laboratory for testing within 48 hours. It was suggested that hospitals use the State courier system to have those samples delivered rather than waiting for several samples and shipping them that way. The concern was that the hospital management was not aware of sample delivery timelines. Another concern is staffing in order to have all testing completed by the laboratory within 48 hours. Dr. Baker mentioned those are a few of the challenges they are currently facing with the process. Dr. Smith asked Dr. Baker to report back to the Board in six to twelve months with an update.

Presentation Regarding Flu Clinics Influenza in Arkansas

Dr. Joe Bates, Deputy State Health Officer/Chief Science Officer presented on Flu Clinics and Influenza in Arkansas. He reported that every county in Arkansas has wide spread flu. Since September of last year there have been 7700 positive tests reported to the Department. Last week alone there was 1700 reported in Arkansas. The reports are primarily Influenza A, however 5% are Influenza B. The highest rates are among young people, age 18 up to middle-age. According to the PCR testing, which is far more precise than the agitate testing, there were 320 positives and have all been in the H1N1 type. Only four have been Influenza B, which is consistent with the rest of the Nation. The next slide showed the deaths in 2012-2013, there were 61/62 deaths. Currently have 24 deaths in Arkansas due to Influenza and 14% of all Emergency Department visits have been for influenza like illness. Dr. Bates wrapped his presentation up by stating there have been 770 hospitalizations this season due to influenza like symptoms.

Update Regarding Obesity Conference

Dr. Joe Bates, Deputy State Health Officer/Chief Science Officer, report regarding obesity conference was tabled until the next meeting due to time.

President's Report

President Childs Bebee thanked everyone at the Department for sharing their knowledge with the Board. Stating that without their knowledge the Board would not be as strong as it is. She also thanked everyone for her appointment as president.

Director's Report

Dr. Smith thanked Mr. Jones, and fellow board member, for his 40 years of service at the Health Department.

Dr. Smith reminded the Board of the Resolution that the Board passed in July 2012, regarding the expansion of the Medicaid Program through the Private Option. Stating the Board indorsed that expansion because of the health of people in the state. Dr. Smith mentioned that it also impacts the Departments operations; particularly the waiver for family planning is gone. Therefore, if we do not have the expansion of Medicaid then the Department will not have the reimbursement support for activities at our local health units. That would have a great impact, not only on the provision of women's health services in the state but also on the staffing of our local health units.

Dr. Smith asked Dr. Thompson to briefly give an update on the expansion reporting. Dr. Thompson stated that the federally facilitated exchange is currently functioning with about 13,000 individuals enrolled. The state enrollment process has been a great success, in that; there are over 85,000 individuals that have come through the state process and 76,000 of those have been assigned to a plan. More importantly no one was auto-enrolled; however some were auto-assigned if they didn't get through the process fully. Dr. Thompson closed in saying "it seems both portals are functioning fairly well."

There was no other business and the meeting was adjourned at approximately 12:22 p.m.

Respectfully submitted,



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