

ARKANSAS STATE BOARD OF HEALTH QUARTERLY MEETING

The Quarterly Meeting of the Arkansas State Board of Health was held on Thursday, January 28, 2010, in Room 906 in the Freeway Medical Towers, Little Rock, Arkansas. The meeting was called to order at approximately 10:05 a.m. Dr. Glen Bryant, Past President, passed the gavel to President-elect, Alan Fortenberry, and he assumed the duties as President.

President Fortenberry expressed appreciation for the service of Dr. Glen Bryant as President of the State Board of Health and presented him with a certificate for his service.

APPROVAL OF MINUTES

President Fortenberry called for the approval of the minutes from the quarterly meeting of October 22, 2009. The minutes were approved as written.

INTRODUCTION OF NEW PRESIDENT-ELECT

Dr. Bryant reported the nomination of Dr. Susan Jones as President-elect by the nominating committee.

Dr. Karen Konarski-Hart made a motion to accept the nomination of Dr. Susan Jones as President. Mr. Donald Phelan seconded and the motion carried.

OLD BUSINESS

Revised Rules and Regulations Pertaining to Public Water Systems

Mr. Robert Hart, Director of Engineering Section, ADH, proposed the revisions.

(1) To insert required EPA language (2) to update those regulations (3) to remove some outdated language regarding old ADH policy on chemical additives to drinking water and (4) to clarify existing regulations to make clear those public water systems should make as a part of their emergency plan to account for a loss of electricity. Mr. Hart discussed the loss of electricity in North Arkansas one year ago and the impact to that area and the customers. The systems that had backup water systems were able to supply water to their customers. The regulation is to make it clear that the Board does expect water systems to include this type of

emergency in their planning. This could be a significant economic expense and there are funding agencies that will entertain grant and loan applications for this purpose.

Mr. Hart reported that at the public and legislative review there were very few public comments. There was only one written comment from a small water system in north Arkansas that expressed their desire to obtain a standby generator, but had not been able to because of lack of funds. The primary question of the legislative committee was in regard to funding and various sources of funding that are available were discussed.

Question from the Board:

Did the legislative committee think it too onerous to move forward with the money situation?

Mr. Hart responded “no”. The existing language in the regulation says that “a community water system has to provide in its emergency plan for a loss of source treatment and distribution”. Based on the last ice storm, probably 20% of the systems in the state have backup power. Not every system has to have backup power since they can buy water from a parent or regional system. There were some legislators who thought that this was a new requirement. ADH tried to make it clear that even if we did not pass or propose this clarified language, we felt that we have the authority to increase emphasis on this. Once they understood that, the vast majority of them were supportive and the only concern was the economic impact.

Mr. Tom Jones made a motion to approve. Dr. Anika Whitfield seconded and the motion carried.

*Revised Rules and Regulations Pertaining to the List of
Controlled Substances*

Mr. Jerry Jones, Branch Chief, Pharmacy Services, asked for final approval to add the following to the list of controlled substances:

Tapentadol
Fospropofol
Lacosamide
Tramadol

Dr. Fritchman made a motion to approve. Dr. Konarski-Hart seconded and the motion carried.

*Proposed Revisions to the Rules and Regulations Pertaining to Radiologic
Technology Licensure*

Mr. Bernard Bevill, Section Chief, Radiation Control Section, requested final approval of proposed revisions to the rules and regulations pertaining to radiologic technology licensure. He reported that during the legislative session of 2009 an exemption was added to include chiropractic externs and bone densitometrists to the list of individuals exempted from licensure.

It was questioned, "what is a chiropractic extern"? Mr. Bevill replied that this is an individual who has gone through chiropractic school and has not yet taken the examination to become a licensed chiropractor. It was suggested that it be defined in the regulations and Mr. Bevill stated that it is in the chiropractic regulations.

Dr. Anika Whitfield made a motion to approve. Dr. Patricia Westfall seconded and the motion carried.

Revisions to the Arkansas Rules and Regulations for Control of Sources of Ionizing Radiation

Mr. Bernard Bevill, Section Chief, Radiation Control Section, proposed final approval of revisions. The public comment period concluded on August 20, 2009 with no objections. One public comment resulted in a non-substantive change where an alternative to the use of Social Security numbers was incorporated.

Revisions have been presented to the Legislative Committee and final approval of the revisions is requested for implementation on May 1, 2010.

Radiation exposure data for an individual shall be reported to the individual. Each notification and report shall: (1) be in writing; (2) include name of licensee or registrant, name of the individual, the individual's date of birth and the individual's social security number or another unique identifier; (3) include the individual's exposure information and (4) contain the following statement:

“This report is furnished to you under the provisions of Arkansas Department of Health Regulations entitled ‘Standards for Protection against Radiation.’ You should preserve this report for further reference”.

After discussion by the Board, Reverend Townsend made a motion to approve. Dr. Susan Jones seconded and the motion carried.

Proposed Revisions to the Rules and Regulations for Cosmetology in Arkansas

Ms. Renee Patrick, Interim Section Chief, Cosmetology, requested final approval of the proposed revisions to the rules and regulations for cosmetology in Arkansas. The public comment period concluded on December 10, 2009 with no objections. Revisions have been presented to the Legislative Committee and the related provider associations are in support.

Dr. Lagaly made a motion for approval of these rules and regulations. Dr. Jones seconded and the motion carried.

Proposed Revisions to the Rules and Regulations for Conducting Criminal Record Checks for Employees and Operators of Home Health, Hospice and Private Care Agencies in Arkansas

Ms. Connie Melton, Section Chief, Health Facilities Services, presented the proposed revisions. The public comment period concluded on December 10, 2009 with no objections. The revisions have been presented to the legislative committees and the related provider associations are in support. The Administrative Rules Committee was especially interested in the rules and regulations for conducting criminal history record checks and they wanted ADH to clarify to the providers which applicants require criminal history background checks. ADH clarified this in writing to the professional associations and that satisfied the Administrative Rules Committee.

After discussion by the Board, Dr. Fincher made a motion for approval of these rules and regulations. Ms. Peggy Walker seconded and the motion carried.

Proposed Revisions to the Rules and Regulations for Home Health Agencies in Arkansas

Ms. Connie Melton, Section Chief, Health Facilities Services, presented the proposed revision. Ms. Melton stated that this revision is related to the Criminal History Record Check and adds the citation that requires the criminal background check.

Ms. Peggy Walker made a motion for approval of these rules and regulations. Mr. Phelan seconded and the motion carried.

Proposed Revisions to the Rules and Regulations for Hospice in Arkansas

Ms. Melton stated that this revision is related to the Criminal History Record Check and adds the citation that requires the criminal background check.

Mr. Phelan made a motion for approval of these rules and regulations. Dr. Anika Whitfield seconded and the motion carried.

Proposed Revisions to the Rules and Regulations
for Private Care Agencies in Arkansas

Ms. Connie Melton, Section Chief, Health Facilities Services, presented the proposed revision. Ms. Melton stated that this revision includes the citation of authority that gives licensure authority. At the last legislative session, there was an act presented specifically for private care agency licensure and to revise the rules and regulations to include the citation of authority.

Ms. Walker made a motion for approval of these rules and regulations. Dr. Konarski-Hart seconded and the motion carried.

Proposed Revisions to the Rules and Regulations
for Orthotic, Prosthetic and Pedorthic Providers in Arkansas

Ms. Connie Melton, Section Chief, Health Facilities Services, presented the proposed revisions. She stated that the last legislative session revised the work experience for an assistant to be reduced from five years to three years, so the revision to the rules is made accordingly.

Mr. Phelan made a motion for approval of these rules and regulations. Dr. Konarski-Hart seconded and the motion carried.

NEW BUSINESS

Waiver of Hearing and Consent Decree – Baker Atlas, Inc.

Mr. Rick Hogan, JD, MPH, ADH Chief Legal Counsel, reported that the Petitioner, the Arkansas Department of Health, and the Respondent, Baker Atlas, Inc., consented to the entry of this Waiver of Hearing and Consent Decree. The Respondent elected to waive the right to a hearing before the Arkansas State Board of Health, and to enter into this decree by consent. The respondent will

submit civil penalties totaling Eight Thousand Dollars (\$8,000.00), the maximum penalty that may be assessed.

Dr. Fritchman moved to accept this waiver of hearing and consent decree. Mr. Phelan seconded and the motion carried.

William Nery Request for Hearing

Robert Brech, Deputy General Counsel, presented William Nery's request for hearing. This is in regard to an application for an individual sewage disposal system for property located at 1663 Treasure Isle Road in Hot Springs, AR that was denied by the committee. The Nerys have been notified of their options.

Dr. Lagaly moved to accept the findings of the committee. Dr. Konarski-Hart seconded and the motion carried.

Approval of County Health Officers

Mr. Rick Hogan, JD, ADH Chief Legal Counsel, presented the request for approval of the County Health Officers for 2010. All are reappointments with the exception of Monroe County (Andy Schalchlin, MD) and Prairie County (Seth Kleinbeck, MD) who are new appointments.

Dr. Konarski-Hart made a motion to approve the slate of County Health Officers. Dr. Fincher seconded and the motion carried.

Approval of Per Diem of Board Members

Mr. Rick Hogan presented the request for approval of per diem of Board Members as authorized in accordance with Ark. Code Ann. § 25-16-902(a), for calendar year 2010.

Dr. Fritchman made a motion to approve the per diem of board members. Dr. Konarski-Hart seconded and the motion carried.

Resolution to Appoint Executive Committee of Board of Health

Mr. Rick Hogan proposed the resolution to appoint the Executive Committee of the Board of Health. According to the by-laws this does require a resolution. The committee would be made up of the President, President Elect, Secretary, Past President, and others appointed by the President. The Executive Committee is authorized by the by-laws to meet at intervals, other than the quarterly meetings of the Board, and may take up business, including routine business. In the event of an emergency, the Executive Committee can act on behalf of the Board as long as any action taken gets approval of the full Board at the next regular meeting. This action will go into effect on this date, January 28, 2010, on approval of the Board.

After discussion by the Board, Dr. Lagaly made a motion to approve the resolution. Dr. Konarski-Hart seconded and the motion carried.

OTHER BUSINESS

Trauma System Update

Mr. Donnie Smith, Director of the Center for Health Protection, introduced Mr. Bill Temple, Branch Chief-Injury Prevention, to present the update. Mr. Temple discussed the funding and the recent budget cuts. The cuts are not expected to have a negative impact on the trauma system this fiscal year. Money will be dispensed but not in the full allocated amount. He discussed the Trauma Advisory Council, a 24 voting member board, with two ex-officio members, Dr. Halverson and the Director of the State Police. He discussed the sub-committees; finance, quality improvement, trauma registry, hospital designation, EMS, and Trauma Regional Advisory Council.

Hardware and software have been purchased and sent to the hospitals and there needs to be a training DVD developed for the hospital registrars. It is expected that within the next eight weeks the necessary materials will be in place to train these individuals. He discussed plans for communication, staff and calls.

H1N1 Seasonal Influenza Update

Dr. Nate Smith, State Epidemiologist, presented the update. The peak of H1N1 occurred in the latter part of October but there are still ongoing cases, although a much lower level than before. The focus at this point is vaccination. Over 400,000 doses have been given and there are still doses that have been given but not yet reported to us. The 2009 H1N1 influenza strain will probably come back either as a third wave or as part of our next seasonal influenza, and it is important to focus on the targeted groups such as pregnant women, children, and adults with underlying medical conditions.

PRESIDENT'S REPORT

President Fortenberry expressed that he is privileged to serve as President. He reported that a Nominating Committee and Executive Committee have been appointed. There are other committee assignments available for Board Members who may volunteer for service. If there are no volunteers for the committees, then he will make appointments.

He urged the Board Members to read the Freedom of Information (FOI) pamphlet.

DIRECTOR'S REPORT

Dr. Halverson congratulated Dr. Fortenberry on his election as President and thanked Dr. Bryant for his service to the Board.

He stated that there have been questions regarding the time of service on the Board, and the law states that you serve until replaced. There are six members of the Board who are either up for reappointment or replacement as specified in the law. He is working closely with the Governor's office. Current members may continue to work with the Board until the replacement or reappointment is made.

Dr. Halverson reported that a recent ranking placed Arkansas in the top 10 percent of the nation in terms of emergency preparedness capacity. ADH was at

one time at the bottom of that list. He thanked Donnie Smith and Dr. William Mason for their leadership and everyone that has contributed in bringing us to this ranking.

He reported that H1N1 has preoccupied the Department and every aspect of the Health Department has been engaged. We have held over 1200 public clinics. Every public school and many private schools have had clinics in all 75 counties and at least two mass clinics have been held in each of these counties. He thanked Randy Lee, Director of the Center for Local Public Health, for his leadership and the herculean efforts that the staffs of the local public health units have exhibited. It is the intention for the future to have school-based clinics and we believe this will provide protection for our school children.

Dr. Halverson discussed the economy and the agonizing decision on the part of Governor Beebe to make budget reductions across all state agencies. The Health Department has not been spared and we have had to make reductions. There are a number of programs that are impacted, and our hope is that, based upon Governor Beebe's leadership, we will have less of a reduction than might have been. Governor Beebe is anticipating that the economy will rebound.

Pursuant to the by-laws, an annual meeting is held the second week in October of each year. Due to finding facilities for the meeting this year, it is necessary to change the date for the meeting this year to October 21st and 22nd. Dr. Halverson moved to change the meeting to October 21 and 22 at Petit Jean. Dr. Lagaly seconded the motion and the motion carried.

Due to the necessary reduction of staff in the Director's office, we have reallocated duties, and part of the change is that Ms. Billie Staley will transition to taking responsibility for the minutes of the Board and working with you. Connie Johnson has enjoyed working with the Board and she will be assigned other responsibilities in the Director's Office. For a period of time we will have both Ms. Johnson and Ms. Staley helping with extraordinary events, but Ms. Staley, who works in the office of Dr. Bates, Deputy State Health Officer and Chief Science Officer, will be the day-to-day contact. Dr. Halverson acknowledged Ms. Staley in her new role and thanked Ms. Johnson in her past role.

The Chairman asked for any other business.

Dr. Anthony Hui stated that our Public Health Laboratory has received recognition from the American College of Pathologists due to the leadership of Dr. Glen Baker and the hard work of the lab staff. This is a great achievement to be accredited by the College and is recognized nationally and internationally.

With no further business, the meeting was adjourned.