

**QUARTERLY MEETING OF THE
ARKANSAS STATE BOARD OF HEALTH
November 8, 2012
Winthrop Rockefeller Institute**

MEMBERS PRESENT

George Harper, President
Paul K. Halverson, DrPH
Miranda Childs-Bebee, DDS
Lawrence Braden, M.D.
Clark Fincher, M.D., President Elect
Alan Fortenberry, P.E.
Tom Jones
Jim Lambert
Lynda M. Lehing
John R. Page, P.D.
Mary Beth Ringgold
Patricia Westfall-Elsberry, O.D.
Terry Yamauchi, M.D.
James Zini, D.O.

GUESTS PRESENT

Dr. Joe Bates, Deputy State Public Health Officer
Ann Purvis, Deputy Director for Administration
Donnie Smith, Center for Health Protection
Dr. Glen Baker, Director, Public Health Lab
Xavier Heard, Human Resources Director
Dr. John Senner, Director, Center for Public
Health Practice
Ann Russell, Director, Health Communications
Katheryn Hargis, Governmental Affairs
Stephanie Williams, Director, Center for Health
Advancement
Michelle Smith, PhD, Director Minority Health
Dr. Sue Weinstein, State Veterinarian
Dr. Dirk Haselow, Infectious Disease Branch
Chief
Dr. Bryan Whitaker, Director, Oral Health
Jeff Stone, P.E., Engineering
James Joiner, P.E., Facility Engineer
Mike Wilson, EOC Technical Manager
Connie Johnson, Director's Office
Rick D. Hogan, General Counsel
Robert Brech, CFO/Deputy General Counsel
Nancy Cox, Legal Services
Jasmine Williams, Director's Office
Jimmy Parks, Student

MEMBERS ABSENT (excused)

Dr. Glen "Eddie" Bryant
Dr. Larry Fritchman
Anthony Hui, M.D.
Susan Jones, M.D.
Marvin Leibovich, M.D.
Dr. Joe Thompson
Peggy Walker, RN, MSN
Anika Whitfield, D.P.M
Alexander Rejistre, Sr., DC
Rev. Dwight Townsend

QUARTERLY MEETING OF THE STATE BOARD OF HEALTH

The November Meeting of the Arkansas State Board of Health was held Thursday, November 8, 2012 in the Governor's Conference Room of the Winthrop Rockefeller Institute, Petit Jean Mountain. President Harper called the meeting to order at approximately 10:10 a.m.

APPROVAL OF MINUTES

President Harper entertained a motion for approval of the minutes of the Quarterly Meeting of July 26, 2012 and the Special Called Meeting of October 11, 2012. Dr. Zini made a motion to approve the minutes. The motion was seconded and the minutes were approved as presented.

OLD BUSINESS

Final Adoption of the Rules and Regulations Pertaining to Good Manufacturing Practices

Mr. Robert Brech, CFO and Deputy General Counsel, asked the Board for final approval of Rules and Regulations Pertaining to Good Manufacturing Practices. These rules will then be in line with federal standards. Mr. Alan Fortenberry made a motion to adopt the rules and regulations. Dr. Zini seconded the motion and the motion passed.

Final Adoption of Proposed Revisions to the 2006 Arkansas Plumbing Code

Mr. Brech stated that this provision in the rules is no longer needed and the entire paragraph is being taken out. A law was passed in the last session dealing with language that might not be sensitive to those with disabilities. Mr. Fortenberry made a motion to adopt the proposed revision. Dr. Zini seconded the motion and the motion carried.

Final Adoption of Rules and Regulations Pertaining to Communicable Diseases

Mr. Donnie Smith, Director, Center for Health Protection, stated the administrative process had been completed and asked for final approval of the Rules and Regulations regarding tuberculosis. Mr. Fortenberry made a motion to adopt the revisions to the rules and regulations. The motion was seconded and passed.

NEW BUSINESS

Proposed Revisions Pertaining to the Control of Communicable Disease Reporting List

Dr. Dirk Haselow, Infectious Disease Branch Chief, proposed updates to the communicable disease reporting list. This list has not been updated since 2005, and since that time, numerous diseases have emerged. The additions are being proposed so that our list is consistent with the

Council of State and Territorial Epidemiologists' Nationally Notifiable Conditions List. We are asking to proceed with the necessary steps in order to adopt the revisions to the rule. Dr. Zini made a motion to move forward with the administrative process. Dr. Fincher seconded the motion and the motion carried.

Dr. Halverson announced that Dr. Haselow has been appointed our State Epidemiologist

Fee Increase for Influenza Vaccinations

Mr. Brech stated that in 2000 the Board passed a rule specifically for fees that the Department could charge for influenza vaccines. Prior to this flu season, the Department charged a \$20.00 fee. We are now raising that fee to \$30.00. We are being pushed to bill for services that insurance companies will pay for, particularly by the CDC, and it is good business practice. This is a mechanism for the Department to recoup some costs for administering the flu vaccine.

Dr. Zini made a motion to approve the fee increase. Dr. Braden seconded the motion and the motion carried.

Local Grant Trust Fund

Mr. James Joiner, PE, Facility Engineer, reported that grants for new and renovations of units are for Sevier and Baxter Counties. The Department would be left with a projected ending balance of \$382,359 for the remainder of the year. Mr. Fortenberry made a motion to approve the recommendations of the subcommittee. Dr. Fincher seconded the motion and the motion carried.

Proposed Revisions to the Rules and Regulations Pertaining to Immunization Requirements

Dr. Haselow proposed to update the regulations with regard to immunizations. Some of the proposals would involve the creation of mandates for a second dose of a meningococcal vaccine and a second dose of varicella or chicken pox vaccine and mandating a Hepatitis A vaccine. They have been recommended passively for years but we think the mandates are necessary to improve coverage. Dr. Yamauchi asked if there was any impact on the budget for the vaccines. Dr. Haselow stated that it was very minimal. Dr. Zini made a motion to proceed with the administrative process. Mr. Fortenberry seconded the motion and the motion carried.

Proposed Adoption of the Rules and Regulations Pertaining to Arkansas Prescription Drug Monitoring Program

Mr. Rick Hogan asked the Board to vote to move forward with the Rules and Regulations Pertaining to the Arkansas Prescription Drug Monitoring Program. When this law was passed in 2011 it specifically said that it must be funded before we could go forward. We have recently received funding that will allow for that. One important aspect of the rules is that consumers' confidentiality and privacy concerns are protected. Because of the timing and the legislative session coming up, it may be that we are not able to get this item on the agenda for the rules committee of the subcommittee for public health. We may bring this back to you after we have a

public hearing. We want to get the program up and running at the earliest date possible. Mr. Fortenberry moved to approve the adoption. Dr. Zini seconded the motion and the motion carried.

**Approval of Arkansas Prescription Drug Monitoring
Program Advisory Committee Members**

Mr. Hogan also stated that under this particular law the Board is required to designate and approve an advisory committee. The designees have all been properly appointed except Dr. Rick Smith. Under the authority of the bylaws and the health code, you should recommend the appointment of Dr. Rick Smith, not as a voting member, but as an associate member of this committee. We ask that the Board vote on this slate of the first designees for this committee. President Harper asked Mr. Hogan if Dr. Leibovich of our Board is our official appointment and Mr. Hogan replied affirmatively. But we are asking that Dr. Rick Smith with UAMS be given the Board's approval? Mr. Hogan stated that was correct. Dr. Zini made the motion to approve the appointments. Mr. Fortenberry seconded the motion and the motion carried.

**Proposed Findings of Fact, Conclusions of Law & Orders;
Cotton Plant Waterworks, Cedar Falls Resort Motel and
Hosanna Heights Water**

Mr. Rick Hogan presented proposed findings on Cedar Falls Resort Motel wherein a subcommittee of the Board found them to be in violation and cited them a civil penalty of \$59,940 which was suspended with Respondent complying with all rules and regulations. Mr. Hogan asked that the Board adopt these recommendations. Dr. Zini moved that the Board adopt the recommendations. Dr. Fincher seconded the motion and the motion carried.

The subcommittee also found Hosanna Heights Water system guilty of violations and recommended a civil penalty of \$11,335 which was suspended for one year contingent upon continued compliance with all state and federal rules and regulations pertaining to safe drinking water. Mr. Hogan asked that the Board adopt the recommendations. Mr. Fortenberry moved that the recommendations be adopted. Dr. Westfall-Elsberry seconded the motion and the motion carried.

The subcommittee found Cotton Plant Waterworks guilty of violations and recommended a civil penalty of \$29,880 but suspended all but \$500 contingent upon the water system abiding by all state and federal rules and regulations. Mr. Fortenberry moved that the Board adopt the recommendations. The motion was seconded and carried.

**Ratification of Cosmetology Technical Advisory Committee
Order Granting Hours Nunc Pro Tunc**

Mr. Hogan asked that the Board ratify an action by the Cosmetology Technical Advisory Committee. Ms. Kala Melton, a student, was enrolled in Lee's School of Cosmetology and had received the appropriate number of hours but the school failed to obtain the proper certification in order for her hours to be credited. The school has assured us that they have a plan of

correction that this doesn't happen in the future, and they presented records that Ms. Melton actually attended. The Advisory Committee voted to retroactively apply her hours to the date the school showed she was first admitted to the school and started attaining the hours. Mr. Hogan asked that the Board approve the ratification. Dr. Page moved that the Board ratify the order of the Advisory Committee. Dr. Zini seconded the motion and the motion carried.

Report on Subcommittee on Dental Rules

Dr. Bryan Whitaker, Director, Office of Oral Health, reported that this past Tuesday Board President Harper received a letter from the State Dental Association asking the Department to secure additional data prepared by the Association concerning prioritization of underserved areas. Since this does not directly affect the language in the proposed rules, we will meet with representatives of the Association and take into consideration this additional information. We will continue to work with them prior to a public hearing.

President Harper commented that as a matter of background, the Board authorized the Department in April to move forward with the adoption of the dental rules. A subcommittee was appointed, chaired by Dr. Fincher, and met on September 17, 2012. We are continuing to work with the various people, including the dental society, and trust that the Department prudently moves forward. That includes receiving the input of the dental society and other interested parties.

Update on Fluoridation

Mr. Jeff Stone, PE, Director, Engineering Section, gave a short review of the law and that is that Act 197 of the 2011 legislative session passed this initiative which the basic requirements were that any water system that serves more than 5,000 people in total and treats water has to initiate a fluoridation program if grant monies are available for the necessary equipment. Once that was passed, the Health Department entered into a rules and regulation modification, and it was our rules and regulations pertaining to Public Water Systems that were modified to essentially say the same thing. These rules were finalized on March 23, 2012.

Initially it was estimated that 34 additional water systems would be affected by this law and have to initiate a fluoridation program. The spreadsheet provided tracks 35 water systems that currently have applied for grant monies. Prior to this law, approximately 65% of Arkansans that get public water received water that was fluoridated. If we get full compliance with this law, that number will be up to 2.4 million people that will receive fluoridated water.

To date, of the 35 water systems we have been tracking, 29 have applied for grant monies. Of those 29 water systems, it is our understanding that 21 have been approved for grants from the Delta Dental of Arkansas foundation. If everyone complied with this law, the total population served with fluoridated water would be approaching 85% of the state.

President Harper asked if enforcement of these rules will fall under the umbrella of our civil penalty statute for the Board of Health. Mr. Hogan stated that that was correct. It would be \$1000 per day for each violation under our civil penalty law.

PRESIDENT'S REPORT

President Harper reported that he and Dr. Halverson, beginning next week, at or near the conclusion of each Board meeting, would do a podcast to make available to the media the main points covered by the Board.

President Harper recognized the accomplishment of Board member Dr. Terry Yamauchi on the occasion of his induction into the Oregon Sports Hall of Fame and presented him with a Dodgers' baseball autographed by the Board members.

DIRECTOR'S REPORT

Dr. Halverson also recognized Lt. Lee Amerine and Lt. Travis Amerine for their achievement and successful completion of the Navy Topgun School. Lee and Travis are the sons of former Board member Dr. Perry Amerine, and Carol Amerine, Program Support Manager for the Office of Oral Health.

Dr. Fincher expressed how much he appreciated George Harper's leadership as President of the Board this year. George has set a high standard, he has been a great professional and competent leader for the Board, and I just want to express my personal appreciation and that of the Board for the time and effort he has put in to lead our Board. Dr. Halverson also expressed his thanks to President Harper for serving as President of the Board.

Dr. Halverson pointed out to the Board that they may not fully recognize the leadership role that the Board has played nationally in actions taken related to synthetic drugs. I recently participated in a national panel which was part of a national public health law conference, and it was obvious that our Board and the actions taken in Arkansas are being used as a pattern for many other states across the country. There are some states that are still debating and trying to figure out what they should do about synthetic drugs.

Dr. Halverson gave a special acknowledgement to Rick Hogan for his leadership as our general counsel and the great work that he has done.

Dr. Halverson announced that the Department is recognized now as being in the top ten states for influenza immunization. We went from number 27 to number 10 in one year based upon the overall uptake of influenza immunizations.

We are making continued progress with the trauma system. We are now up to 54 or 55 hospitals in our state that are designated as a trauma center. At our last Governor's Trauma Advisory committee meeting we learned that we can tell you when a patient is injured and they first receive treatment on a pre-hospital basis, when they go to the trauma center, what occurs during the period of hospitalization and rehab, and the committee is beginning to grapple with issues of system disconnects; where there is a problem, where we can make improvements, where we can change a procedure or a process. This is a very rare occurrence because in most states, a trauma patient is taken care of at one hospital, maybe by one EMS system, and they don't have the

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ability to have that system look because they don't have a system. Dr. Halverson thanked the Board because they passed the first resolution supporting the development of a trauma system and over the years it has been executed.

The governor's office has asked that the Department accept responsibility for three boards and commissions; the Board of Sanitarians, Health Educators and the Athletic Commission. We agreed that we would, at their request, be willing to consider these Boards.

Dr. Halverson thanked the Board members for attending the Board meeting and the educational workshop.

The meeting was adjourned at the hour of 11:50 a.m.

Respectfully submitted,

Paul K. Halverson, DrPH, Secretary
Arkansas State Board of Health
Director and State Health Officer