

**QUARTERLY MEETING OF THE ARKANSAS STATE BOARD OF HEALTH
January 24, 2008**

Members Present

Dr. Robert Sanders
Vickey Boozman
Dr. Glen Eddie Bryant
Alan Fortenberry
Dr. Larry Fritchman
Dr. Paul Halverson
Richard Hughes
Dr. Anthony Hui
Dr. Susan Jones
Tom Jones
Dr. Karen Konarski-Hart
Lynda Lehing
Dr. John Page
Don Phelan
Dr. Jack Porter
Dr. Jane Sneed
Russ Sword
Peggy Walker
Patricia Westfall
Dr. Terry Yamauchi
Dr. Joe Thompson

Members Absent

Dr. Glenn Davis
Dr. Caesar Divino
Dr. Timothy Webb

Guests Present

David Taylor, EMS
Jerry Duncan, ADH
Jack Beuschel, Studor, Inc.
Joyce Dees, Governor's Office
Frank Snell, Ark. OPP Advisory Board
Donnie Smith, ADH
Renee Mallory, ADH
Connie Melton, ADH
Cristy Sellers, ADH
Marcell Jones, ADH
Bernie Bevill, ADH
Randy Lee, ADH
Dr. Jennifer Dillaha, ADH
Terry Paul, ADH
Dr. Richard Nugent, ADH
Dr. Joe Bates, ADH
Dr. Glen Baker, ADH
Brian Nation, ADH
Larry New, ADH
Dr. Michael Gruenwald, Trauma Advisory
Council

Jane Gaskill, ADH
Robert Brech, ADH
Roger Smith, Ark. OPP Advisory Board
Dan Crowder, Ark. OPP Advisory Board
Ann Wright, ADH
Reginald Rogers, ADH
Rick Hogan, ADH
Charlotte Tubbs, Ark. Democrat-Gazette

The Quarterly Meeting of the Arkansas State Board of Health was held Thursday, January 24, 2008, in the Board Room of Freeway Medical Building in Little Rock, Arkansas. President Robert Sanders called the meeting to order at 10:00 a.m. After a few opening remarks, which included recognition of Charlotte Tubbs of the Arkansas Democrat-Gazette, President Sanders passed the leadership of the Board to President-Elect Jack Porter. President-Elect Porter congratulated President Sanders on his service to the Board and presented him with a Certificate of Appreciation which he read aloud. Dr. Paul Halverson also expressed his appreciation for President Sanders' work and praised his availability and advice.

APPROVAL OF MINUTES

President-Elect Porter called for the approval of the minutes from the November 1, 2007, Quarterly Meeting. Mr. Don Phelan made a motion to approve the minutes. Following a second, the minutes were approved by unanimous vote.

NEW BUSINESS

Nominating Committee Report

Mr. Rick Hogan, Chief Legal Counsel, presented the report for Dr. Glenn Davis, who could not attend. He indicated that the Committee wished to recommend Dr. Glen Eddie Bryant as President-Elect. Mr. Russ Sword made a motion, which was seconded, voted on and passed.

Proposed Revisions to the Rules and Regulations for Emergency Medical Services

Mr. David Taylor, Section Chief, EMS and Trauma requested that the revisions be approved by the Board to go forward to public hearing. The amendment would require Arkansas ambulance services to contact the Department of Health prior to deploying any Arkansas-permitted ambulance to another state to fulfill obligations of state, federal or private contract. This would assist the Department with emergency resource allocation related to ambulance vehicles and personnel. There is no financial impact expected on the Department or ambulance services. March 14 is the expected public hearing date with proposed effective date in May. Mr. Taylor pointed out several letters of support which were included in the Board packet.

Numerous questions ranging from ambulance and licensing fees to weekend emergency response situations were raised. Mr. Taylor sufficiently addressed all concerns. Ms. Karen Konarski-Hart made a motion that the revisions be sent to public hearing. A second was voiced and the motion passed by unanimous vote.

Proposed FFY 2008 WIC State Plan of Operations

Dr. Jennifer Dillaha, Director, Center for Health Advancement discussed the services provided by the Women, Infant, Children (WIC) Program through the Arkansas Department of Health. She asked that the FFY 2007 and FFY 2008 WIC State Plan of Operations be approved to go to the Public Health Commission. Both state plans that have been put together under the guidance of the U.S.D.A. Food & Nutrition Service which runs the program. The program operates under their direction. Although the plans are going through the Administrative Procedures Act, they are not at the level of rules and regulations. The reason the state plan is coming before the Board is because it is important to Arkansas and input is sought from the public via a posting of the plan on the internet or hard copy. In order to solicit broad awareness and input, the plans will go through the Administrative Procedures Act.

Last year's plan was delayed due to changes in federal guidelines. It started last fall going through the Administrative Procedures Act but was delayed due to it being stamped "Draft" for not going through the federal partners for approval. It was scheduled to go to Rules and Regulations Committee, then the Legislative session occurred so it did not go before that Committee until October, 2007. The new federal fiscal year began October 1 and the 2008 Plan has been developed which is a modification of the 2007 Plan. Dr. Dillaha stated that she would like to take both approved plans together back to the Public Health Committee and the new part to the Rules and Regulations Committee. This will be an ongoing cycle which can sometimes be difficult to coordinate because of the differences in state and federal fiscal years, legislative agendas and the approval process with the feds.

A motion was made to take both plans together through the administrative process. Dr. Joe Thompson, State Surgeon General, inquired as to the most controversial piece in either plan. Mr. Marcell Jones, Associate Branch Chief, WIC Branch, stated there were no public comments

on either plan. Dr. Terry Yamauchi raised a question regarding legal issues such as duplication of charges by vendors. Mr. Jones stated that his office had not had any questions or issues related to that process. A second was voiced, vote taken and the motion passed. Dr. Porter thanked Dr. Dillaha and Mr. Jones for their efforts on this program which is a huge benefit to the citizens of Arkansas.

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

Mr. Bernie Bevill, Section Chief, Radiation Control stated his unit licenses the use and possession of radioactive material, registers therapeutic x-ray equipment and licenses medical accelerators for use in the state. This is done under an agreement with the U.S. Nuclear Regulatory Commission (NRC). The State of Arkansas has been in agreement since 1963. After explaining the highlights of the changes to the rules, a motion was made for the revisions to be approved. A second was voiced and President-Elect Porter asked for any further discussion. Mrs. Vicki Boozman pointed out some clerical errors which need to be addressed. Mr. Bevill indicated that corrections would be made. Dr. Thompson then asked if there were controversial issues the Board should be aware of before voting. Mr. Bevill stated that he is not aware of anything in the rules would be controversial. He went on to state that the NRC and Homeland Security work "hand in glove". The vote was then taken and the motion passed.

Proposed Findings of Fact, Conclusions of Law and Order Studor, Inc.

Mr. Robert Brech, Deputy General Counsel, presented to the Board the Proposed Findings of Fact, Conclusions of Law and Order regarding a challenge to the current rules pertaining to air admittance valves by Studor, Inc. Mr. Brech informed the Board that a hearing was held on Thursday (January 17, 2008) and supporting documentation was distributed as an addendum to the Board packet.

Mr. Brech stated the current rules require that a professional engineer design the plumbing system prior for use of an air admittance valve and the valve cannot be used below the flood rim of a sink. Studor, Inc. is a manufacturer of air admittance valves and challenged both of these restrictions because these requirements make the use of air admittance valves cost prohibitive or impractical.

Questions were raised by the Board members following Mr. Brech's presentation. Mr. Brech introduced Mr. Jack Beuschel of Studor, Inc. who made a detailed explanation of the workings of the valve. Mr. Beuschel stated that there is not a documented failure rate for the valve and that it is used as an option to open pipe venting. One of the benefits of the product is that it saves labor and material in construction. Mr. John Page made a motion to approve the findings which was seconded. Before a vote was taken, the discussion continued.

Dr. Larry Fritchman said that he had chaired the sub-committee which worked on this issue and that cost was not a factor. Public health is the concern – the potential for major disaster in a home. The sub-committee gave the Committee of Plumbing Examiners every opportunity to voice their objections. The objection the sub-committee most wanted to hear was the number of major failures since 1975 when the valve was introduced. Dr. Fritchman stated that in 33 years there has been no problem so there is no reason to deny the use of the valve. Dr. Halverson made the point that the Department of Health wants to be open to innovation but our responsibility is safety and protecting the consumer. He reminded the Board that the Health

Department has a long history of working with the Committee of Plumbing Examiners. While he respects the work done by the sub-committee and, in the spirit of full discourse around this issue, Dr. Halverson thinks it would be prudent to table the motion until a representative of the Committee of Plumbing Examiners could be present to discuss the matter. The Board of Plumbing Examiners has been considering this issue for a couple of years and they feel strongly that this is not in the best interest of the state. Dr. Halverson wants to be open and hear evidence on both sides. The sub-committee had that opportunity but because of the gravity of the situation with the Committee of Plumbing Examiners, Dr. Halverson would like to hear from both sides before it goes for public comment. He requested that a special meeting be called to deal with this issue. At this point, Mr. Page withdrew his motion. A second was voiced and the motion was withdrawn.

Further discussion included the fact that the open pipe vent system does not require approval but the air admittance valve must be approved by a professional engineer, which would prove more costly to homeowners. Dr. Halverson said he thinks the rules and regulations need to be changed and he would like to hear arguments directly from the Committee of Plumbing Examiners. Mr. Don Phelan voiced his opinion that this should go to public hearing, get comments from concerned parties and then bring them back to the Board. He does not want to waste the Board's time with a special meeting. Mr. Phelan indicated that the Committee of Plumbing Examiners had been afforded an opportunity to attend this meeting but chose not to attend. President Porter agreed with Mr. Phelan's suggestion. A motion was made for the matter to proceed to public hearing. A second was voiced, vote taken and the motion passed. Dr. Joe Thompson made a motion for the Board to send a request to the Committee of Plumbing Examiners to provide input during the public comment period and to be present at the Board's discussion of the public comments. This would be a formal communication of the Board. President Porter asked for a second, which was voiced. The vote was taken and the motion passed. Dr. Halverson abstained from voting.

Mr. Brech stated that a draft of a proposed rule incorporating the Board's decision was not available at this time. On the Board's agenda was a draft of the 2006 Plumbing Code. Once the 2006 Plumbing Code is adopted and finalized, a draft can be prepared incorporating the changes for the use of air admittance valves. The Board will have to vote on the draft and then put it out for public comment. Dr. Thompson confirmed that the Board will adopt the 2006 Code without the allowance of this valve. The public comment is on a totally separate track which will not hold up the Code.

Proposed Rules and Regulations for Orthotics, Prosthetics and Pedorthics Providers in Arkansas

Ms. Connie Melton, Section Chief, presented the proposed rules and regulations for licensing approval. Ms. Melton explained that the providers are American Board Certified. Governor's Advisory Board members Frank Snell, Gary Horton, Dan Crowder and Rene Mallory were introduced by Ms. Melton. A motion was made to approve and seconded. Following discussion, the vote was taken and the motion passed.

Proposed Revisions to the Rules and Regulations for Critical Access Hospitals in Arkansas

Ms. Connie Melton also presented the proposed revisions to the rules and regulations for critical access hospitals for consideration. Mr. Sword moved to approve the rules and regulations, a

second was voiced and then President-Elect Porter asked for discussion. Following discussion, the vote was taken and the motion passed unanimously.

OLD BUSINESS

Proposed Adoption of FFY07 WIC State Plan of Operations

This Plan was approved at the same time as the 2008 Plan. (See above)

Proposed Adoption of the Rules and Regulations for Hospital Discharge Data

Ms. Lynda Lehing, Hospital Discharge Section Chief, brought forth these rules and regulations for final approval by the Board. A motion was made, seconded and voted on. The motion passed. Ms. Lehing abstained from voting as she is a Board member.

Proposed Adoption of Rules and Regulations Pertaining to the Forms for the Regulations Governing the Practice of Lay Midwifery in Arkansas

These rules and regulations were presented for approval by Dr. Richard Nugent, Family Health Branch Chief. Following a motion and second, the vote was taken and passed unanimously.

Proposed Adoption of 2008 International Plumbing and Fuel Gas Codes

Mr. Jerry Duncan, Director of the Plumbing and Natural Gas Program, presented the codes for adoption. Dr. Thompson raised a question on waterless urinals in high volume locations such as nightclubs, arenas, theaters, etc. Mr. Duncan explained that the Legislature had said the requirement for such urinals is discriminatory.

A motion was then made to adopt the codes and a second was given. The vote was unanimous in favor of adoption.

Proposed Adoption of Rules and Regulations Pertaining to Onsite Wastewater Systems, Rules and Regulations Pertaining to Food Service Establishments and Rules and Regulations Pertaining to Mobile Home and Recreational Vehicle Parks

Mr. Terry Paul, On-Site Wastewater Program Administrator, presented three sets of rules and regulations. He requested that since there is nothing controversial regarding the wastewater systems that they be allowed to go for public hearing. Dr. Fritchman made a motion to go forward which was seconded by another Board member. The vote was unanimous in favor.

Mr. Paul then requested adoption for the food service rules and regulations which have been through the administrative process. A motion was made, seconded and a vote taken. The motion passed. One of the Board members pointed out that there is reference to "Division of Health" in the rules. Mr. Paul indicated that corrections would be made prior to issuance.

Another motion was made regarding the mobile home and recreational vehicle parks rules and regulations. It was seconded and a vote taken. The motion passed.

OTHER BUSINESS

Update on Trauma Systems for Arkansas

Mr. Donnie Smith, Director of the Center for Health Protection, introduced Dr. Mike Gruenwald and Dr. James Graham. Mr. Smith shared the highlights from a public hearing in Batesville on December 28 which consisted of 30-40 legislators. He indicated that there was high support for the concept of a trauma system in the state. Education is still needed to differentiate between a trauma system and a trauma center. Funding is a dilemma – both source and allocation.

Dr. James Graham explained that cost is the key issue – the care of uninsured patients (such as young adults with no health insurance) and readiness costs (emergency room doctors, nurses and trauma specialists). Trauma registry costs are also a factor. The mean standby costs can run \$2.7-3 million per hospital per year. The Governor's Trauma Advisory Council has estimated \$30-35 million for six or seven Level 1 trauma centers in Arkansas. The Council has also looked at the cost for not having a trauma system. Arkansas is the only state that does not have a single designated trauma center. Statistics show that at least one person each day dies a preventable death in Arkansas because of a lack of a trauma center/system. The lost productivity for those individuals is estimated to be in the range of \$200-300 million for those preventable deaths this year. Dr. Graham then addressed preventable disability by recalling the example of the New Jersey Governor who was severely injured in a devastating accident and was treated in a Level 1 trauma center. He has been rehabilitated and has returned to work. A study in the Journal of Trauma last year that revealed that if a person with a high injury severity score was treated in a trauma center hospital, they had a 20% greater chance of walking out of the initial hospitalization totally independent (no feeding tube, walker or assistance). Dr. Graham quoted statistics to support the fact that the state could save \$385 million each year by having a trauma system. Total cost today of not having a trauma system is probably in excess of \$500 million a year. He reiterated that this is very much a public health issue. President Porter thanked Dr. Graham for his presentation.

Dr. Mike Gruenwald has served for 3 years as Chair of the Governor's Trauma Advisory Committee. He stated that everyone knows that a trauma system is the right thing for Arkansas. He wants to keep it as simple as possible. He encouraged Board members to e-mail him at jg@uams.edu with questions and comments.

President-Elect Porter questioned whether the figures previously quoted for running a trauma system are for a certain percentage of self-pay patients which would lessen the state's burden due to reimbursement. Dr. Gruenwald answered that he would anticipate the cost would be stable. A question was then raised as to how much Arkansas pays to surrounding states such as Tennessee to manage our patients. Dr. Gruenwald said he is not familiar with the actual number but he estimated that for every dollar spent, we get ten dollars back in services and then deferred to the State Surgeon General. Dr. Thompson stated having a trauma system is one of the Governor's top priorities. 87% of people hospitalized for trauma have insurance, Medicare or Medicaid – they are not uninsured. Dr. Halverson interjected that this is one of the most important issues the Board faces. He thanked the Governor's Trauma Advisory Committee which is lead by Drs. Gruenwald and Graham for their diligent work and leadership for the last two years. Dr. Gruenwald closed his comments by stating that the Arkansas network should be integrated into the national network. President-Elect Porter then thanked Dr. Thompson and Dr. Gruenwald for their dedication to the issue and said that the Board looks forward to hearing from them again as this issue progresses. He said the Board feels this is an absolute necessity in Arkansas.

Approval of Per Diem of Board of Health Members

Mr. Rick Hogan presented the current per diem for 2008 for approval by the Board. Mr. Richard Hughes made a motion to accept it which was seconded by Mr. Fritchman. The motion passed unanimously.

Appointment of Dr. Jim Bozeman as Fulton County Health Officer; Dr. Gene Shelby as Garland County Health Officer; Dr. Ray Bolton as Hot Spring County Health Officer; Dr. Guiford Dudley as Jackson County Health Officer; Dr. B.C. Hyatt as Perry County Health Officer; Dr. Robert Williamson as Prairie County Health Officer; and Dr. Tommy Taylor as Sharp County Health Officer

Director for the Center for Local Public Health, Mr. Randy Lee presented the doctors for appointment as County Health Officers which have been recommended by County Judges and local health unit administrators. All statutory requirements have been met. Mr. Sword moved to accept all and a second was voiced. The vote was unanimous in favor.

PRESIDENT'S REPORT

President-Elect Porter asked President Sanders if he had anything to report. He did not.

DIRECTOR'S REPORT

Dr. Halverson thanked the Board for their service. He remarked that the material had been sent out early to provide Board members ample opportunity for review prior to the meeting and that this practice would continue. He encouraged the Board to contact his office if any member has questions at any time.

Mr. Hogan reminded the Board members that there is a Statement of Financial Interest. The deadline is January 31. Dr. Hui requested a directory of Board members.

With no further business, Dr. Porter adjourned the meeting at 12:10 p.m.