

**Arkansas State Board of Health  
Quarterly Meeting  
July 23, 2009**

**MEMBERS PRESENT:**

Glenn Eddie Bryant, MD, President  
Alan Fortenberry, PE, President-elect  
Paul Halverson, DrPH, Secretary/Director  
Lawrence Braden, MD  
Clark Fincher, MD  
Larry Fritchman, DVM  
George Harper, JD  
Anthony Hui, MD  
Susan Ward Jones, MD  
Karen Konarski-Hart, DC  
William Lagaly, DO  
Lynda Lehing  
John Page, PD  
Donald Phelan  
Jack Porter, DDS  
Joseph Thompson, MD  
P.J. Walker, RN, MSN  
Patricia Westfall, OD  
Anika Whitfield, DPM

**MEMBERS ABSENT:**

Thomas Jones, RS  
Marvin Leibovich, MD  
Rev. Dwight Townsend  
Terry Yamauchi, MD

**GUESTS:**

Joyce Dees, Governor's Office Liaison  
Carolyne Park, AR Democrat Gazette

**ADH STAFF:**

Charles McGrew, Deputy Director & COO  
Mary Leath, Deputy Director of Administration  
Dr. Joe Bates, Deputy Director & Chief Science Officer  
Jodiane Tritt, Director of Community Support  
Rick Hogan, JD, Chief Legal Counsel  
Reginald Rogers, JD, Legal Counsel  
Robert Brech, JD, Legal Counsel  
Donnie Smith, Health Protection Center Director  
Randy Lee, Local Public Health Center Director.  
Glen Baker, MD, PH Lab Director  
Jennifer Dillaha, MD, Health Advancement Director  
Bob Bennett, Chief Financial Officer  
Dr. James Phillips, Infectious Disease Branch Chief  
Dr. Susan Weinstein, Public Health Veterinarian  
Bob Higginbottom, Health Protection Section Chief  
Robert Hart, Engineering Section Chief  
Iram Bakhtawar, MD, TB Section Chief  
Rosa Hignight, Women's Health  
Dr. Richard Nugent, Family Health Branch Chief  
Connie Johnson, Exec. Assistant, Director's Office

## **Arkansas State Board of Health Quarterly Meeting**

The Quarterly Meeting of the Arkansas State Board of Health was held on Thursday, July 23, 2009, in the Hughes Conference Room at the Freeway Medical Building in Little Rock, Arkansas. President Eddie Bryant called the meeting to order at approximately 10:05 am.

### **APPROVAL OF MINUTES**

President Bryant called for the approval of the minutes from the April 23, 2009, quarterly meeting and the minutes from the special meeting of May 6, 2009. Dr. John Page made the motion to approve the minutes. Dr. Karen Konarski-Hart seconded the motion and the motion carried.

### **AMENDMENT TO THE AGENDA**

Dr. Larry Fritchman requested to offer a motion to amend the agenda. He stated that there were four cases of Finding of Fact, Conclusions of Law and Order which need to be included on today's agenda. Mr. Phelan seconded the motion and the motion carried.

### **OLD BUSINESS**

#### **Proposed Changes to Immunization Rules and Regulations**

Dr. Paul Halverson requested to speak before Dr. James Phillips presented the proposed changes. He stated that these proposed changes are for final approval. When this item was placed on the agenda, it was anticipated that the public health committee would have met prior to today's Board meeting. Unfortunately, the committee did not meet due to another legislative meeting. Dr. Halverson stated that contact has been made with both chairs of the public health committee and they are both very comfortable having the Board approve the proposed changes, if the Board is so inclined, pursuant to the review and approval of the public health committee. The chairs did not anticipate any problem with the review of the rules and regulations. Dr. Halverson said that this order is slightly out of context, but it would allow us to move forward with these rules and regulations in a timely way.

Dr. James Phillips stated that all the steps in the administrative rule making process have been completed for final adoption of the Rules and Regulations Pertaining to Immunization Requirements. As stated in the information, these regulations are being revised to update requirements to be more in keeping with the National Advisory Committee on Immunization Practices' recommendations and clarify existing requirements.

After some discussion, Dr. Page made the motion to approve the Rules and Regulations contingent upon legislative approval. Dr. Anthony Hui seconded the motion and the motion carried.

Dr. Joe Thompson asked when these rules would go into effective. Dr. Halverson stated that after the legislative approval, it then goes to the Governor's Office for his signature. There is about a two week time period following the Governor's signature for the Secretary of State's Office to finalize it.

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Thompson said that he was concerned about the timetable on behalf of the school nurses across the state. These nurses have requested that when an immunization change is made, that it be effective in January or the summer months. If changes are made in the middle of a school semester, it sometimes requires them to deny access to school for some children when they have not been given enough lead time to get the vaccine. Dr. Thompson made the motion for the rules to go into effect in January 2010. Dr. Fritchman seconded the motion and the motion carried.

Dr. William Lagaly stated that on Page 12, Section B, Item #2 of the rules, read “a medical doctor:” He believes this is a grammatical error and request it be changed to “a state licensed physician” which he believes wouldn’t require any motion. Dr. Halverson thanked him for pointing out this error.

**Health Facility Infection Disclosure Rules and Regulations**

Dr. Phillips stated that all the steps in the administrative rule making process have been completed for adoption of the Rules and Regulations pertaining to Health Facility Infection Disclosure. These regulations have been developed pursuant to Act 845 of 2007 which established voluntary reporting of healthcare associated infections.

Dr. Page made the motion to approve the adoption of the Health Facility Infection Disclosure Rules and Regulations. Mrs. P.J. Walker seconded the motion and the motion carried.

**Rules and Regulations Pertaining to the Control of Communicable Diseases –  
Tuberculosis**

Dr. Iram Bakhtawar, Tuberculosis Section Chief, stated that all the steps in the administrative procedures process have been completed and she was requesting final approval of the Rules and Regulations Pertaining to the Control of Communicable Disease – Tuberculosis.

Dr. Bakhtawar stated that the regulations are being revised pursuant to Act 313 of 2007 which requires the department to accept testing performed in other states in the previous six months in lieu of testing in the last 90 days. This change does not significantly increase the risk of TB exposure to the public.

Mr. Phelan made the motion to approve the adoption of the rules and regulations. Dr. Konarski-Hart seconded the motion and the motion carried.

**NEW BUSINESS**

**Appointments to the State Committee of Plumbing Examiners**

Mr. Bob Higginbottom, Director of Protective Plumbing Codes, stated that Section 17-38-201 of the plumbing code statute authorizes the Boards of Health to appoint members to the Committee of Plumbing Examiners. Two of the seven voting members' terms will expire in July 2009: Mr. Lynn Bennett, master plumber representative and Mr. Courtney Swindler, engineer representative. Mr. Bennett has served two four-year terms and Mr. Swindler has served only one four-year term.

Since Mr. Swindler has only served one term, the staff recommends that he be reappointed for another four-year term. Mr. Bennett has already served two terms; therefore, the staff recommends he be replaced with Mr. Kenneth Harper from Gurdon. Mr. Harper has an extensive plumbing background and is the only candidate from the southern part of the state which has no representatives at this time.

Mr. Phelan made the motion to approve the appointment of Mr. Kenneth Harper and the reappointment of Mr. Courtney Swindler. Mr. Alan Fortenberry seconded the motion and the motion carried.

**Resolution**

In conjunction with last action taken, Dr. Halverson stated he thought it was important for this Board to recognize the leadership and outstanding service of Mr. Lynn Bennett. Mr. Bennett has presented to this Board on numerous occasions, an update on the work of the Plumbing Examiners. During the merger, there were some difficulties between the Department and the plumbing examiners committee. It was Mr. Bennett who worked diligently with the Department helping us to make improvements and restoring a good working relationship between the committee and the Department. He has served the citizens of our state well and has represented the Plumbing Examiners with integrity and professionalism.

Dr. Halverson stated he would like to offer a resolution to formally recognize Mr. Bennett and his service in the form of a motion. Resolution reads:

Whereas, on this 23rd day of July 2009, before the regular meeting of the Arkansas State Board of Health, Mr. Lynn Bennett is formally recognized for his devotion and professional service to the State of Arkansas, Arkansas Department of Health, State Committee of Plumbing Examiners and to the plumbing industry.

Be it resolved, on this 23rd day of July 2009.

Mr. Phelan seconded the motion and the motion carried.

**Proposed Changes to the Public Water System Regulations**

Mr. Robert Hart, PE, Director of Engineering, stated that he would like to request permission to proceed with the administrative procedures process to revise the Rules and Regulations Pertaining to Public Water Systems.

Mr. Hart stated that the purpose of the revisions was to:

1. Add the US Environmental Protection Agency mandatory language and make a minor wording correction.
2. Remove outdated regulation language regarding an ADH policy on approved chemicals, equipment and processes.
3. Clarify existing language on emergency planning requirements to include the loss of electricity and
4. Obtain a new approval date on the regulations to adopt by reference the Environmental Protection Agency's Short-Term Regulatory Revisions and Clarification for the Lead and Copper Rule which were promulgated on October 10, 2007

After some discussion, Mr. Fortenberry made the motion to begin the administrative process. Dr. Konarski-Hart seconded the motion and the motion carried.

**Proposed Revisions to the Rules and Regulations Pertaining to Rabies Control**

Dr. Sue Weinstein, State Public Health Veterinarian, stated she would like to request permission to proceed with the administrative procedures process. She stated that these regulations are being revised pursuant to Act 159 of 2009 which modernizes Arkansas's Rabies Control Act. The act updated rabies requirements based upon changes in vaccines since 1975. It empowers the State Board of Health to establish reasonable vaccination requirements against rabies and deletes outdated requirements.

Dr. Weinstein stated that one of the minor changes was the removal of the requirement that a quarantined dog or cat be observed by a licensed veterinarian and allows local public officials to ensure the dog or cat is confined and observed. This change was made due largely to the fact that in some areas, there is no licensed veterinarian willing to take on this responsibility.

The main area of change is to update the interval of rabies vaccinations from the current yearly requirement to extend it to the expiration of the vaccine, whether it is a one year, two year or three year vaccine. Veterinarians will have the choice of which vaccine they want to use in their individual clinics. Also, the age of first vaccination has been lower to within 30 days of reaching four months of age with revaccination during the 12<sup>th</sup> month after the initial vaccination.

Dr. William Lagaly asked if the Health Department could carry the vaccine since it is not readily available. Dr. Weinstein stated that she spends a great deal of her time helping people obtain the vaccine. She said that the Health Department carried the vaccine in the past, but the program was stopped in 2001 due to the financial burden.

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Dr. Lagaly asked if this was an issue that could be reevaluated. Dr. Halverson stated that he didn't foresee that this would be possible due to the expense of maintaining the stock. However, we will continue, as Dr. Weinstein stated to help support and assist citizens in obtaining the vaccine on a timely basis.

Dr. Joe Thompson stated he would like to clarify the issue of veterinarians making the choice of which vaccine to use. He understood that three of the five vaccines are identical so he doesn't understand why we are allowing the veterinarians the flexibility to make the decision whether the vaccine will be for one year or more. He is concerned that the veterinarians might make the vaccine a one-year vaccine thus requiring yearly visits. Dr. Weinstein stated that the veterinarians on the advisory committee were very vocal about this choice. Most of them believe that the public is aware of the one-year requirement and while many of them have their pets vaccinated regularly, many only make it every two or three years. The concern is that if the public is aware of the three year vaccine, they will only come in every five to seven years. Dr. Weinstein stated that the public is not aware of the identical vaccines nor are most veterinarians. She believes that giving the veterinarians the discretion is the scientific thing to do.

Dr. Larry Fritchman stated that he was in agreement with both the national and state associations to back Act 159 of 2009. He stated that there is really nothing wrong with this set of rules, but the problem he has is strictly public health and it is strictly compliance. He stated that compliance with all vaccines, especially rabies, is very poor in the rural areas of this state. He stated that the veterinarians association should do a better job of educating the public and do a better job of annual rabies clinics which were done in the past on a regular basis in every county. He said that those veterinarians who are still doing the annual clinics in the rural areas feel very fortunate if they see the same person every two to three years. Dr. Fritchman stated his concern was exactly what Dr. Weinstein stated regarding the drop in compliance. Two dogs in Randolph County and two dogs in Sebastian County had rabies. One of the dogs in Sebastian County had never been vaccinated against rabies. It also became known that one of the city mayors in Randolph County had never had his dog vaccinated. Dr. Fritchman stated that when there is a law in place and there is a financial burden if you don't get your animals vaccinated, he feels strongly that you have better compliance. He worries that we are headed towards the three year vaccine and he is concerned about the drop in compliance. He stated that Dr. Weinstein has followed many of the states and does not see an increase in rabies cases with the three years vaccine. The only disagreement he has with these rules is the compliance issue regarding public health from a yearly vaccine.

Dr. Fritchman stated that periodically they would receive morbidity and mortality data from the Health Department that covered the normal diseases and also gave a report on rabies in each county. He would like to have this report reinstated because it was very informative and very beneficial in identifying areas that were most problematic with rabies. He stated that this report covered not only pets, but livestock as well.

Dr. Page made the motion to begin the administrative process. Dr. Anika Whitfield seconded the motion and the motion carried.

**Appointment of Task Force on Water Source Protection and  
Appointment to Task Force on Water Quality**

Dr. Halverson stated that both Act 1177 and Act 1884 require that the State Board of Health appoint a member to serve on task forces on Water Source Protection and Water Quality. As the state regulatory agency for the Federal Safe Drinking Water Act, Dr. Halverson stated that he believes that Robert Hart, Engineering Section Chief, and Charles McGrew, Deputy Director and Chief Operating Officer, would be invaluable members on the two task forces. Both have many years of experience with helping to protect the drinking water of all Arkansans and are very knowledgeable in all facets of this important aspect of public health.

Dr. Halverson stated he would like to recommend and make the motion that Mr. Hart and Mr. McGrew both serve on each of the two task forces. If either of the Task Force chairs will limit our involvement to one representative, then his recommendation would be that Mr. Hart serves as our appointee.

Dr. Konarski-Hart seconded the motion and the motion carried.

**Proposed Findings of Fact, Conclusions of Law and Order**

Mr. Robert Brech, Deputy Counsel, stated that four of these five respondents failed to obtain a food service permit. These individuals had food service permits which had been expired for two to three years. These parties have entered into a Consent Decree agreeing to these facts and were fined accordingly by the Administrative Hearings Subcommittee. The other finding of fact related to an establishment that allowed children to be present in the food preparation area on numerous occasions despite being notified of the potential health risks and that this is a violation of the Rules. This establishment also entered into a Consent Decree.

Mr. Brech asked for the Board's approval of the recommendations by the Administrative Hearings Subcommittee. Dr. Fritchman made the motion to approve the recommendations. Mr. Harper seconded the motion and the motion carried.

**OTHER BUSINESS**

**Update on H1N1 Vaccine for Fall**

Dr. James Phillips handed out three sheets of information on the H1N1 flu. He stated that so far this flu is acting like the seasonal flu, except for the fact that it is slightly more contagious. We expect many more cases when school starts and CDC is currently in the process of changing recommendations for schools. It is rumored that the changes will not involve closing schools, but sending home all sick students and teachers until they are free of fever without antipyretics for 24 hours.

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Department plans for the vaccine are still undetermined because as of today we do not know how much vaccine we will receive or when it might arrive. We are planning for mass clinics as well as in-school vaccinations. CDC is scheduled to make recommendation on priority groups for the vaccine later this month and it is our intent to follow those recommendations. Vaccine trials start this week so it has yet to be determined if one or shot doses of vaccine will be necessary.

Dr. Phillips stated that the data shows that the age group 5-24 years of age has the largest number of confirmed cases in Arkansas. He stated that other states are reporting the same data. After age 25, the incident of cases drops off. It is unlike the seasonal flu where the older adults are more susceptible.

Dr. Halverson stated that the Department will be working closely with the Department of Education regarding hand washing capabilities. He reported that many of the schools did not have soap in their restrooms and some did not even have running water. We will work with them to make sure there is hand washing capabilities in all schools or gel as an alternative because that basic hygiene is so important not only with the flu season but in general .

Dr. Phillips thanked Dr. Glen Baker and Dr. Randy Owens with our Public Health Lab for the huge undertaking of evaluating the large number of samples.

Report only, no action was needed on this item.

**Annual Flu Shots in Schools**

Mr. Randy Lee, Director of the Center for Local Public Health, reported that the Department has ordered about 600,000 doses of seasonal influenza vaccine for the 2009-2010 season as compared to 280,000 doses ordered last year. Funding for both adults and children will be provided by the tobacco tax. Part of the state funding is to purchase influenza vaccine for all public school students in Arkansas. The increase in the number of vaccine doses for children accounts for the largest increase, with 433,500 doses available this year compared to 104,000 doses in 2008.

We will increase the number of mass flu clinic around the state. In the past three years, these have been very successful, increasing from 54,000 doses given in 2006 to 125, 000 doses given last year. It is very much a community effort with county people involved including law enforcement, student nurses and volunteers. Some of these clinics have two components – walk through or drive through which takes care of those with difficulty getting out of their vehicles. The majority of these clinics are only drive-through in areas where there is ample driveways or roads leading into the site.

The dates set for the state-wide mass clinics are scheduled for October 29, 30 and 31. Every county will pick one of those dates for their mass flu clinic. Information will be available in Spanish and interpreter services may be available in some locations.

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New this year is the school vaccination program where the Department will provide 363,000 doses of the seasonal flu vaccine. Field staff has been working with school nurses and administrators across the state to partner with them to establish school-based immunization this fall.

These school-based clinics should increase the number of children we immunize because it makes it easier for the parents. As we increase the number we immunize, we decrease the flu in the community which decreases the days absent from work or school.

Dr. Halverson stated that he believes Arkansas's school based vaccine program is leading the country in terms of the state-wide approach to seasonal flu. This is an important milestone for Arkansas and we should be very proud of this endeavor. He thanked Mr. Lee and his entire staff for working diligently on this huge endeavor.

It was questioned why the flu vaccine is available at some locations too early. Mr. Lee stated he knows that many providers get their supply earlier than the Department and go ahead and administer the vaccine. However, we have no control over when they offer the flu vaccine. We can only advise when the vaccine should be taken.

Report only, no action was needed on this item.

**Update on Current H1N1 Cases**

Dr. Glen Baker, Director of the Public Health Laboratory, reported that the lab has received samples from 64 counties for a total of 1856 with 131 positive for H1N1. He stated that the majority of the early samples were mainly negative with only seven percent being active. Due to the large number of negative samples being received, the criteria for submitting samples were tightened. We are now only receiving about 10-15 samples per day with about an 80 percent positive rate. Yesterday 11 samples were received and seven were positive.

Dr. Baker stated that the test for H1N1 is mostly manual, thus limiting our test capabilities. We are expanding that capability through a grant in order to allow us to handle 100-120 samples per day.

Dr. Halverson commended the laboratory staff for their dedication and hard work due to the heavy workload. Due to the complexity of the test, the work has fallen on a few of the staff.

Dr. Halverson stated that he wanted the Board to understand that just because you have a certain number of confirmed cases does not mean that is the total number of cases in the state. Laboratory testing is done mainly for surveillance and clinicians should not wait for a case to be confirmed before treating the disease. There are many more cases across the country than confirmed cases.

Report only, no action was needed on this item.

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**Update on Midwifery Status**

Dr. Richard Nugent, Family Health Branch Chief, reported that the legislature determined that adequate maternal care was not readily available for all low income women in some parts of the state, resulting in undue hardships to poor, expectant mothers. The General Assembly authorized a Licensed Lay Midwifery Program currently administered by the Health Department. The current rules and regulations were updated in 2007.

The report in the packet summarizes midwife deliveries for the five year period of 2004-2008, and describes more detailed findings for calendar years 2007 and 2008.

Report only, no action was needed on this item.

**PRESIDENT'S REPORT**

President Bryant stated that he wanted to commend the Department for their work on both the H1N1 and seasonal flu. He stated it would be interesting to see what will happen when school starts.

**DIRECTOR'S REPORT**

Dr. Halverson stated that there is currently a legislative review of our tobacco programs in general as well as our cessation program. Due to our cessation program, we now have over 100,000 fewer smokers in Arkansas. We are now within a couple of tenths of a percent of being at the same rate for youth as the national average where we were once very high. Dr. Halverson stated that this is a great accomplishment for our state. He stated that if you combine the savings for both adults and youth, the savings are in excess of a billion dollars. It is a huge economic return on investment for this program. We are being asked on August 4, 2009 to report the findings to a legislative committee and that the Department is very excited about sharing the success of this program.

Dr. Halverson thanked the Board for their support and contribution to this successful program. CDC is recommending an even greater investment in this program. Arkansas is still about two percentage points higher on adult rates than the national average, but we have seen some nice declines in those rates. As you know, smoking is related to the leading cause of death, heart disease, in Arkansas.

Dr. Halverson reported that the Department is applying for new funding available for planning and preparation for H1N1. We look forward to being as prepared as possible and we are working with national organizations and neighboring states in our planning efforts.

Dr. Halverson reminded the Board about the annual meeting and educational retreat in October. He feels that this time is very valuable to the board members and asked the members to make this a high priority if at all possible.

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With no further business, the meeting was adjourned at 12:05 pm.

Respectful submitted,

A handwritten signature in blue ink, appearing to read "Paul Halverson". The signature is stylized with a large initial "P" and a long horizontal stroke.

Paul Halverson, DrPH  
Director/Secretary of Board of Health