

**Quarterly Meeting
Arkansas State Board of Health
October 16, 2008**

MEMBERS PRESENT

Jack Porter, DDS, President
Glen "Eddie" Bryant, MD, President-elect
Paul Halverson, DrPH, Secretary/Director
Larry Fritchman, DVM
George Harper, JD
Richard Hughes, IV
Thomas Jones
Karen Konarski-Hart, DC
William Lagaly, DO
Lynda Lehing
Donald Phelan
Russ Sword, FACHE
Patricia Westfall, OD
Anika Whitfield, DPM

MEMBERS ABSENT

Lawrence Braden, MD
Glenn Davis, MD
Alan Fortenberry, P.E.
Anthony Hui, MD
Susan Ward Jones, MD
John Page, PD
Marvin Leibovich, MD
Peggy Walker, RN, MSN
Terry Yamauchi, MD

GUESTS PRESENT

Joseph Bates, MD, ADH
Charles McGrew, ADH
Mary Leath, ADH
Steve Boedigheimer, ADH/CDC
Jodiane Tritt, JD, ADH
Donnie Smith, ADH
Randy Lee, ADH
Jennifer Dillaha, MD, ADH
Glen Baker, MD, ADH
Christine Patterson, ADH
Xavier Heard, ADH
Bob Bennett, ADH
Jerry Pack, ADH
Rick Hogan, JD, ADH
Robert Brech, JD, ADH
Reginald Rogers, JD, ADH
James Phillips, MD, ADH
Terry Paul, ADH
Richard Nugent, MD, ADH
Lynn Bennett, Plumbing Board Chair
Mike McClellan, HVACR Board Chair

ARKANSAS STATE BOARD OF HEALTH QUARTERLY MEETING

The Quarterly Meeting of the Arkansas State Board of Health was held on Thursday, October 16, 2008 at the Winthrop Rockefeller Institute on Petit Jean Mountain in Morrilton, Arkansas. President Porter called the meeting to order at approximately 10:00 am.

APPROVAL OF MINUTES

President Porter called for the approval of the minutes from the July 24, 2008 Quarterly Board Meeting. Dr. Larry Fritchman pointed out two minor corrections. Mr. Russ Sword made the motion to approve the minutes as corrected. Motion was seconded and approved.

NEW BUSINESS

Hospital Discharge Data Rules and Regulations

Lynda Lehing, ADH Hospital Discharge Data Section Chief, requested the Board's approval to begin the administrative procedures process regarding revisions to the Rules and Regulations for the Hospital Discharge Data System. She stated that the purpose of the request is to clean-up grammar, typographical errors, and document formatting as well as clarifying and/or updating data elements in keeping with industry changes. There is no anticipated opposition from the hospitals regarding these changes.

Mr. Sword made the motion to begin the administrative process. The motion was seconded and the motion passed.

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

Dr. James Phillips, Chief of the Infectious Disease Branch in the Center for Health Protection, requested the Board's approval to begin the administrative procedures process to revise the Rules and Regulations pertaining to the Control of Communicable Diseases – Tuberculosis. He stated that these 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.

Our current regulations require newly hired public school employees to provide documentation of being free from tuberculosis (TB) that is dated not more than 90 days prior to the start of school. Act 313 allows newly hired public school employees to use documentation of a TB skin test done in the U.S. within the last six months as evidence of TB screening instead of undergoing screening again.

Dr. Fritchman questioned the wording "... to accept testing performed in other states in the previous six months..." and asked if this would six months would include testing performed in this state as well. Dr. Phillips stated it would include testing from both our state as well as other states. Dr. Fritchman also asked why we no longer felt the 90 day timeframe was important. Dr. Phillips stated that it is inconvenient for a teacher to obtain a TB test during the school year since the hours of operation of the local health units are almost the same as the teachers' work day. Testing requires two visits to the health unit, one for the test and another visit 48 hours later for reading of the test. Many of the school employees would not return for the reading thus resulting in more testing. Extending the 90 days to six months would allow most of these employees to be testing during a school break. Dr. Fritchman stated he understood that issue, but wanted to know the critical issue of 90 days which we once required. Dr. Phillips stated that the Department's experience has been that we have not revealed any problems in the past and extending the time does not significantly increase the risk of TB exposure to the public.

Mr. George Harper stated that the revision summary only refers to public school employees and asked if the Department also screened private school teachers. Randy Lee, Director of the Center for Local Public Health, informed the Board members that the Department does screen private school teachers as well.

President Porter asked that since we will be accepting test results from our state as well as other states could we eliminate the three words "in other states". Mr. Rick Hogan informed the Board that this wording comes directly from Act 313 of 2007 and therefore cannot be changed.

Dr. Fritchman made the motion to begin the administrative process. Mr. Richard Hughes seconded the motion and the motion passed.

Rules and Regulations Pertaining to Immunization Requirements

Dr. Phillips also requested the Board's approval to revise the Rules and Regulations pertaining to Immunization Requirements. A summary of the proposed changes have been provided in the Board packet.

After some discussion, Mr. Richard Hughes made the motion to begin the administrative procedures. Mr. Sword seconded the motion and the motion passed.

Rules Pertaining to the Health Facility Infection Disclosure Act of 2007

Dr. Phillips requested the Board's approval to promulgate Rules and Regulations pertaining to Health Facility Infection Disclosure pursuant to the procedures of the Administrative Procedures Act process.

In the last session of the legislature, Act 845 of 2007 was passed which establishes voluntary reporting of healthcare associated infections which requires that the Board of Health promulgate rules and regulations to implement the Act. These regulations establish the CDC National Healthcare Safety Network (NHSN) as the data collection and analysis methodology for healthcare associated infections. NHSN is a secure, internet-based surveillance system that utilizes standard definitions and is free of charge for participants. Also, an advisory committee was established as designed in the Act.

It was asked if there was consideration to make this mandatory at some point. Dr. Phillips stated that initially when the legislators were looking at this issue, it was proposed that it be mandatory. Dr. Phillips stated that he believes in time it will become mandatory. It was also asked that if there were any plans in the future to remove the provision that prevents the public from being able to look at data individual to a certain facility. Dr. Phillips stated that the Act would have to be changed to identify a certain facility and he wouldn't want to speculate. He said that this issue varies from state to state.

Dr. Halverson stated that he has the privilege of chairing this committee along with Dr. Terry Yamauchi. He stated that one of the things they found quite encouraging was from South Carolina which has a mandatory reporting law. They reported that just after a relatively short period of time of data collection, they saw significant improvement of reported cases. Dr. Halverson said that this makes sense because when you have reporting they tend to pay more attention and there is a reduction in this area. President Porter stated he felt that this reporting has to be done to stay competitive with the marketplace. Dr. Halverson stated that the hospitals represented on this committee have been very cooperative. Dr. Halverson thanked Dr. Phillips and his staff for taking the lead on this project.

Dr. Anika Whitfield asked how accessible would the data be to the public. She said that the regulations don't spell this out. Dr. Phillips stated that the Act doesn't have any specifics in it, but he believes it will be available both in hard copy and on the internet. Dr. Halverson explained that this is one of the situations where there is no additional funding provided so current staff members will have to take on this duty and this will be a resource intensive issue. He said that the other states that have this in place have hired several highly-skilled people to handle this on an ongoing basis. Logistics are still being worked out and we will do as much as we can.

Mr. Sword stated that it was important from our respective to gather data and determined root cause and what we can do as a public health industry as well as providers of health care to address the issues of cause. This is something that hospitals have been researching and studying for a number of years. The purpose of this is not to identify culprits, but to help identify causes and what we can do as an industry to elevate those causes.

After much discussion, Mr. Sword made the motion to begin the administrative process. Dr. Whitfield seconded the motion and the motion passed.

Proposed Findings of Fact, Conclusion of Law and Order

Mr. Robert Brech, Deputy General Counsel, reported that this individual had failed to get a required permit. Prior to the hearing, the individual paid his fine and the hearing was cancelled.

OLD BUSINESS

Request to rescind motion for Pulaski County Southwest Health Unit

Mr. Rick Hogan, Chief Legal Counsel, stated that in 2004 Pulaski County Southwest Health Unit was awarded \$200,000 for the construction of a new facility from the Local Grant Trust Fund (LGTF). While the State Board of Health approved this recommendation, the plan to build a new health unit did not materialize.

Subsequently in 2008, Pulaski County recommended that the relocation concentrate on a standalone building, instead of new construction. As a result, in July 2008 the Board approved the recommendation of the Local Grant Trust Fund subcommittee to allow the \$200,000 to be used to supplement the Pulaski County purchase of a standalone building.

The staff of the Pulaski County Southwest Health has been notified that negotiations for the purchase of a standalone building have not materialized. Additionally, Mr. Hogan reported that his legal staff has reviewed the law regarding this issue and report that the law is not clear regarding the prohibition concerning the purchase of "real property".

Mr. Hogan stated it is the recommendation of the Department that the Board rescind the July 2008 motion to allow the Pulaski County Southwest Health Unit to use Local Grant Trust Fund monies to purchase a standalone building. He stated that Pulaski County would be eligible to submit a new request for consideration by the LGTF when decisions have been made concerning this facility.

President Porter asked for clarification on the statement about the law not being clear regarding the prohibition concerning the purchase of real property. Mr. Hogan said that there was a provision in the law concerning the purchase of real property being prohibited, but in other provisions in the law it seems to make this issue very clouded in terms of what this money can be used for concerning a purchase or expansion. Mr. Hogan stated he felt that is was very confusing and unclear. He stated that the issue of purchasing a standalone building is very rare

and he knows of only one other time. He stated that amendments to the law over the years have put in question some of the language in the original law.

President Porter stated since the original motion was made in 2004 does that mean this money was still in escrow. If this is the case, should the Board consider a statute of limitations on the timeframe to use the awarded money since this \$200,000 could have been used by another health unit that needed the money that might not have been denied due to lack of funds. Mary Leath, ADH Deputy Director for Administration, stated she and Terry Brumbelow have had quite a few discussions over this issue. She stated that basically we have limited funds, about 600,000 new dollars each year. Currently we have about two million dollars in the fund which is mostly obligated as directed by the Board which includes this \$200,000. Upon today's approval of the request to rescind the motion, the \$200,000 will go back into available funds for consideration. She stated there are quite a few requests in backlog from local health units that have needs. She stated it would be beneficial to have projects to have a set time limit. She stated that Terry Brumbelow has sent out a series of requests for all the projects across the state in order to have an update. If we have a project that has been approved for funding, but no action has been taken for three to four years it might be better for that project to be revisited. Dr. Halverson asked that the Department be able to come back to the Board at a later date with a designated timeframe. Dr. Fritchman stressed the importance of ample time for a project and also to allow for flexibility because sometimes it is a problem beyond their control.

Dr. Fritchman made the motion to rescind the \$200,000 funding. Dr. Lagaly seconded the motion and the motion passed.

Onsite Wastewater Rules and Regulations Update

Terry Paul, Environmental Health Branch Director, stated that the Onsite Wastewater Rules and He stated that these rules have been brought before the Board twice, two public hearings have been held and modifications have been made twice. The regulations before you today have been updated to incorporate public comments and professional observations. He stated that these changes have made as a result of the subsequent law along with the addition of a few new definitions, and practical use recommendations made by installers and designated representatives. He stated that both the Rules and Public Health Committees have approved these changes.

Dr. Fritchman asked if there was any record keeping requirements regarding experimental systems wastewater. Mr. Paul stated the Department had to keep a record of every system they approve including experimental systems. He stated that the Department is currently only approving one experimental system which is the drip system and is currently developing rules and regulations for that system. He stated that there is now a computer program that allows them to track the type of system that is being approved across the state and the experimental systems are being tracked.

Dr. Konarski-Hart made the motion to approval the final updates to these rules and regulations. Mr. Phelan seconded the motion and the motion passed.

OTHER BUSINESS

Dr. Halverson introduced Lynn Bennett, Plumbing Board Chair and Mike McClellan, HVACR Board Chair. Usually at the October meetings the Board of Health members are given the opportunity to hear from the chairs of both the Plumbing HVACR Boards. These Boards are constituted by law and carry out their responsibilities very seriously throughout the year providing oversight leadership in our state. Dr. Halverson expressed the Department's appreciation of the work of these Boards.

Plumbing Board Update

Mr. Lynn Bennett stated it was always a pleasure to visit with the Board of Health members. He lives in Hot Springs and has been a plumber for 31 years and has a family business with his younger son who is a Master Plumber.

The Plumbing Board which meets the first Friday of each month, except December, has two main components. The first component is to go over the list of people who ask to take the journeyman or master's state test along with utility worker's test to make sure they have the right background as well as the correct paperwork. The Department's staff brings any problems to the Board's attention. Approval is then given for the tests to be taken. The other component is holding hearings for those plumbers who have done something wrong or for those who aren't plumbers but think they are and have gotten caught doing something incorrectly.

Mr. Bennett stated that if someone is reported to have done something wrong in the field, the State Inspector tries to work through the process at that level to get it corrected. If it cannot be corrected at that level, the State Inspector will then write this person up to appear before the Board. Prior to the hearing, the staff interacts with them to try to get them to correct the problem. If they are legal plumbers, they are urged to correct the problem. If they are not legal plumbers, then they are urged to hire a legal plumber to correct the problem. He stated that when someone has been caught doing something wrong, there are about four levels of opportunity to correct the problem before it comes before the Board. Mr. Bennett expressed his appreciation to Robert Brech and Reginald Rogers for their assistance to the Plumbing Board.

Mr. Bennett stated a new endeavor has been started regarding collections of fines. With licensed plumbers, their license is revoked until they pay their fine. Most fines are paid immediately so that they can get back to work. However, in the past when a fine had been assessed to an unlicensed person, there wasn't much that could be done to collect that fine. These people would go back to their communities and report that the fine system was a joke and continue doing what they were doing that got them fined. Now, through the help of Mr. Bob Bennett, ADH Chief Financial Officer, the Board is getting some of that money recouped through the State Income Tax Return. Currently, the Plumbing Board has collected \$140,000 in unpaid fines.

Mr. Bennett expressed his appreciation to the Board for letting him be a part of their meeting. President Porter stated that the Board of Health appreciates the Plumbing Board and the work that they do.

Dr. Halverson stated that in addition to the provision to collect money through the state income tax, our Legal staff has filed over 50 lawsuits in the past year to help collect outstanding fines on behalf of both Boards. He thanked Rick Hogan and his staff for this huge endeavor. Dr. Halverson stated he believes there is a different attitude in the state in regards to these fines being collected.

HVACR Board Update

Mr. Mike McClellan, HVACR Board Chair, expressed his appreciation to the Board for the opportunity to speak with them today. He stated that his Board's mission is to provide for a properly designed installation, construction, maintenance, service repair and modification for heating and ventilation, air conditioning and refrigeration system for the health and safety of the consuming public of Arkansas. The Board consists of six mechanical contractors, one engineer, one consumer, and one ADH staff member.

Mr. McClellan reported their fine process was very similar to those in the Plumbing Division. In addition to the state inspectors for Plumbing, there are also HVACR state inspectors. They also work closely with Rick Hogan and his staff. In the past 16 years of the program, many of those fees have been written off due to timelines and people moving to other states. Since the collection process has been initiated, a great deal of progress has been made to collect current civilian fines. Mr. McClellan stated that the collection of fines is the best leverage they have with offenders who thought they wouldn't have to pay. He stated that he appreciated the Department's assistance with this issue.

Mr. McClellan stated that in 2009 the International Code Council will publish a new mechanical code. He stated that his board will go through an adoption process and hopefully a new code will be adopted for Arkansas that will allow our codes to be in line with those codes. There is a big impact on their industry to "go green" as much as possible to help the environment.

Mr. McClellan asked for the Department's continued positive support and thanked the Department for all the assistance they have received. He stated that Mr. Terry Granderson with the Protection Health Codes Division was working with him to develop a more detailed financial statement which would help his Board with future planning. He thanked the Board of Health members for their time and support.

Dr. Halverson stated he felt it was very important for the Agency to have both the Plumbing and HVACR Boards within the context of the Department. Some of the greatest advancements in the longevity and quality of life have come as a result of the improvements in environmental health. Both Dr. Halverson and President Porter expressed their appreciation for the work of both of these boards.

PRESIDENT'S REPORT

President Porter stated he was looking forward to the afternoon's workshop to discuss important public health issues.

DIRECTOR'S REPORT

Dr. Halverson stated that during a recent Strategic Planning meeting, one of the issues discussed was the lack of understanding by the public as to what the Health Department does. He said that it was not uncommon across the country for the people to have an unclear view of the responsibilities of a health department. In Arkansas, we have a very comprehensive mission as defined by law. He distributed a booklet entitled "Guide to Public Health Services" which outlines the extent of services we provide along with helpful telephone numbers. The Guide also listed the Board of Health members to acknowledge the importance of the Board. It is the Department's plan to update this guide annually. In addition to the Guide there are also pamphlets for each individual county outlining their health status and local contact information.

Dr. Halverson stated that he was also looking forward to the afternoon's discussions. He said that the annual meeting was an excellent time to discuss public health issues and concentrate on several important issues.

With no further business, the meeting was adjourned at 11:50 am.

Respectfully submitted,



Paul Halverson, DrPH
Secretary, Board of Health