

**ARKANSAS STATE BOARD OF HEALTH QUARTERLY MEETING
NOVEMBER 4, 2010**

Members Present

Alan Fortenberry, P.E., President
Susan Jones, MD, President-elect
Miranda Childs-Bebee, DDS
Lawrence Braden, MD
Clark Fincher, MD
Larry Fritchman, DVM
Paul Halverson, PhD
George Harper, JD
Anthony Hui, MD
Thomas Jones, RS
William Lagaly, DO
Lynda Lehing
Alexander Registre, Sr., DC
Mary Beth Ringgold
Joe Thompson, MD
Rev. Dwight Townsend
Peggy Walker, RN. MSN
Anika Whitfield, DPM
Terry Yamauchi, MD

Guests Present

Randy Lee, Director
Center for Local Public Health
Glen Baker, MD, Director
Public Health Laboratory
Donnie Smith, Director
Center for Public Health Protection
John Senner, PhD
Center for Public Health Practice
Joseph Bates, MD, Deputy State Health Officer
Chief Science Officer
Mary Leath, Deputy Director of Administration
Nate Smith, MD, Deputy Director for
Public Health Programs,
State Epidemiologist
Robert Hart, Section Director,
Environmental Health
David Grimes, MD, Branch Chief-Family Health
Rick Hogan, JD, MPH, Legal Services
Ann Wright, Director, Health Communications
and Marketing
Robert Brech, JD, Legal Services
Jim Phillips, MD, Branch Chief, Infectious Disease
Thomas Bruce, MD, Chief Physician Specialist

Members Absent

Glen "Eddie" Bryant, MD
James Lambert
Marvin Leibovich, MD
John Page, PD
Patricia Westfall-Elsberry, OD

**ARKANSAS STATE BOARD OF HEALTH QUARTERLY MEETING
November 4, 2010**

MINUTES

The quarterly meeting of the Arkansas State Board of Health was held on November 4, 2010 at Mt. Magazine State Park, Arkansas. President Alan Fortenberry called the meeting to order at 10:00 a.m.

APPROVAL OF MINUTES

The first order of business was approval of the minutes for past meetings. He asked for a motion to ratify the action of the Executive Committee in the "special-called" meeting of the Executive Board on October 1, 2010 by approval of the minutes. Dr. Clark Fincher made a motion and Dr. Hui seconded. The motion carried.

President Fortenberry presented the remaining minutes to be approved. Dr. Fincher pointed out a typo on the minutes for the meeting held on April 22, 2010. Page 5, paragraph 3, line 2 was amended to read 207/248 (87.4%) were intubated on the second attempt. President Fortenberry asked if there were any other corrections or additions to the minutes for April 22, July 2, October 1 or October 14. He called for a motion to approve all the minutes with the correction to April 22, 2010, page 5, paragraph 3. A motion was made by Dr. William Lagaly and seconded by Dr. Susan Jones. The motion carried.

OLD BUSINESS

Enforcement Orders for Mount Zion Water System and 101 Great American Diner

Mr. Robert Hart stated that a subcommittee of the State Board of Health met in June, 2010 to have hearings for Mount Zion Water System and the 101 Great American Diner for drinking water violations. Mount Zion was brought before the subcommittee due to violations of the Safe Drinking Water Act. Mount Zion has been before the subcommittee in 2003, 2004 and 2009. The finding of the subcommittee was that the water system was in violation of the regulations and assessed a civil penalty of \$27,360, but offered to waive that penalty if the water system would consolidate with a neighboring water system and to submit a plan for that consolidation within 60 days of the Board of Health's Order. We have been providing technical assistance since the hearing to try and petition them to consolidate. The process is in progress and hopefully will be successful. The subcommittee also required that the water system immediately pay \$4,639.14 in public water system fees of which the water system is in arrears.

The water system is required to collect and submit an annual fee to the Department of Health and they have only made one monthly payment in the last 15 years.

The second Order was regarding 101 Great American Diner, a restaurant located in Baxter County. It was brought before the subcommittee for failure to collect routine compliance samples for analysis.

The subcommittee assessed a \$28,800 fine and the fine will be waived provided they maintain compliance for at least one year.

President Fortenberry asked Mr. Hart if Mt. Zion has moved forward and is in compliance. Mr. Hart stated that Mount Zion has not paid the fee, has not moved forward and is not in compliance.

President Fortenberry asked Mr. Rick Hogan and Mr. Robert Brech if they do not comply with the order, do we then initiate legal action against them.

Mr. Hogan replied that the next step would be to seek a court order for enforcement. The agency has tried many times to work out arrangements to keep their operation going because water being provided to the communities is critical and consolidation would take care of the problem. The next step would be to try to initiate some action to enforce the Order.

There was much discussion regarding the fact that the City of Monticello provides Mt. Zion's water, but from that point, they are responsible and are not following through with testing.

Mr. Hart stated that as small as the water system is, there still has to be compliance in testing and they consistently fail to do this. This is the fourth time we have been through this process. We might go to Monticello or a couple of other water systems surrounding them and inform them of the number of customers and their infrastructure. These systems will want to determine if it is viable for them to take over the system. He stated that when there is a question of the water not meeting standards, we do go down and take samples and offer assistance.

The Board expressed concern that we have been through this process three of four times previously, how many times do we go through it before we do the next step and there has to be some type of finality.

A motion was made and seconded in ratifying and adopting the Order of the committee. The motion carried.

NEW BUSINESS

Proposed Changes to Rules and Regulations Pertaining to Tuberculosis Screening for Foreign-Born University and College Students

Dr. James Phillips stated that when the rules and regs originated, the only mechanism for screening for tuberculosis was the tuberculin skin test. This test, in some form or fashion, has been with us for 120 years and there have been problems with it from the beginning.

He said that one of the major problems concerning the foreign-born students is that many of them come from countries where they require BCG vaccinations and this can have an impact in them having a positive tuberculin skin test when they have never had primary tuberculosis. Since these rules were adopted, blood tests have been developed using the Interferon - Gamma Releasing Assay that can be used more effectively without cross over reactivity by someone who has had a BCG vaccination. The colleges and universities in Arkansas have gained from the experience of other states that have used the blood tests.

There was much discussion regarding the advantages and the results that this test offers.

Dr. William Lagaly asked if this proposal could be amended to include high school exchange students.

Mr. Hogan stated that this regulation dates back to 2003 when it was initially adopted and it was based on endemic populations based on WHO reports. The regulation was based on data that outlined the tuberculosis case rates in a population. Mr. Hogan suggested that before we amend it, we should do some additional research. Legally, our initial concern was that we were picking out certain populations, foreign-born, and there were some legal concerns that had to be resolved.

Dr. Paul Halverson said that if the Board would allow us to proceed today as it is, we will commit to study this. With this rule, we are talking with higher education and with the rule potentially related to high school we are talking about the Department of Education. It is a different bureaucracy and rules and regulations. We don't want to slow this down because of differences.

President Fortenberry asked for a motion to proceed on to the Administrative Procedure Act in regard to this particular regulation change. Dr. Anthony Hui made a motion to accept and Dr. William Lagaly seconded. The motion carried.

Proposed Revision to the Rules and Regulations for the Hospital Discharge Data

Ms. Lynda Lehing, Hospital Discharge Section Chief, asked for approval to amend the Rules and Regulations pertaining to the Hospital Discharge Data System. The purpose of this amendment is to clean-up typographical errors and clarify and/or update data element definitions and coding in the hospital Discharge Data Submittal Guide. The changes are:

- the elimination of the option to use the State License, Universal Physician identification Number (UPIN) and the Provider Commercial Number for the Physician/Provider Number (only the National Provider Identifier (NIP) will be accepted);
- the elimination of Code 7, Emergency Room, as a Point of Origin for Admission or Visit Code; and
- the addition of the Public Health Conditional Codes P1, Do Not Resuscitate, and P7, Direct Inpatient Admission from Emergency Room.

There are also a number of regulatory codes that need to be updated.

After discussion, Dr. Clark Fincher made a motion to approve these changes and move on to administrative procedures and Ms. Peggy Walker seconded. The motion carried.

*Proposal Revisions to the Rules and Regulations
Pertaining to the Arkansas Cancer Registry*

Mr. Brech presented the proposal to update the Rules and Regulations pertaining to the Cancer Registry. Dr. Hui stated that the practice of medicine has changed drastically in the last ten years. He asked if the regulation is kept up to date and how is the data collected?

Mr. Brech answered that doctors are required through the cancer registry law to report certain cancers. One of the problems is not getting the complete data. He said that the ADH staff makes visits to the doctors' offices and clinics to collect the data.

Dr. John Senner stated that we have access to pathology reports from hospitals in many states. So, yes we do get the reports, but it is a problem getting reports from dermatologists and urologists.

Dr. Joe Bates said that the urologists and dermatologists are reluctant to take the time to make a report. Most reports of melanomas come from the pathologist and not the dermatologist. We really need these data to measure what is happening.

President Fortenberry asked Mr. Brech if the primary change is to strengthen this regulation by the inclusion of the appendices. Mr. Brech replied "yes".

Dr. Clark Fincher asked Dr. Glen Baker when you get a report from a pathologist and you have not received a report from the clinical physician, do you follow-up with the clinical physician. Dr. Baker replied "yes".

Dr. Fincher stated that we are probably still not getting what we would like and asked what changes in this rule would help us to do that. Mr. Brech answered that currently our staff has to go out and collect the data and this will make it the responsibility of the doctor or the clinic.

Dr. Hui made a motion to move to go on to administrative procedures. Dr. Jones seconded. The motion carried.

After the motion carried, Dr. Joe Thompson asked if there was anything in the changes that would be problematic in the administrative process. Mr. Brech answered "no".

There was a question as to whether there is a penalty for non participation. Mr. Brech said that there are two types of penalties, the criminal penalty, and the civil penalty can be assessed up to \$1,000 per violation per day.

Dr. Halverson said that there is no intention to put any doctor in jail or to fine them thousands of dollars for not doing this, but as we heard this morning with the water system, if you have rules you have to have the ability to enforce the rules. He said that he believes that rules are there and need to be enforced and he doesn't foresee any problems with getting the doctors to cooperate.

Dr. Thompson said that in the next legislative session the enabling legislation for the state's health information exchange, the connection of all electronic health records will be passed. He asked if the Health Department's legal team will make sure that legislation includes the ability to capture the cancer information to populate the registry. He said that the package needs to include the surveillance aspect for the Health Department's needs.

Ms. Mary Leath presented the report for the Local Grant Trust Fund Subcommittee. She gave a brief summary of the functions of the subcommittee for the benefit of the new Board members. She presented a grant for a new building in McGehee, Desha County and a request for additional funding for a new building in Wynne, Cross County. The current balance is \$2.2 million and with the approval of these projects \$1.3 million will remain in the funding account.

Dr. Fincher moved for approval of the two requests from the Local Grant Trust Fund. Dr. Jones seconded. The motion carried.

President Fortenberry asked if there was other business at this time. Mr. Fortenberry stated that regulations are important and they are for the public's benefit. There are a lot of people who take the position that they do want to be involved. He said that he is not in favor of a lot of government, but believes that government is necessary to protect all of us and regulations are good. The fact that we have clean water and environmental friendliness in the State of Arkansas is due to regulations.

PRESIDENT'S REPORT

President Fortenberry stated that he gets frustrated because in years past it was a given that you should have electricity if you were living in the country. Now, the Federal Government has the same type of program; that you have city water, no matter how far out you live in the country. There are areas that have factors making it difficult to have the same situation in regard to water. A drinking water system is obligated to protect the health and welfare of customers and the effort is to get it to the customers is great and sometimes sustainability for this service is lacking. Everything has to be sustainable and the economics of the issue is not looked at enough, so a funding agency will fund, put in the water lines, and then you are in a quandary what to do. You can't shut them down because the drinking water is important for health and well-being, but it has to be safe. From a funding standpoint, it may be more costly for some areas and there should be a program to get this to afford people good, clean drinking water. In the United States, you can go anywhere and feel confident that because of EPA's regulation of the Clean Drinking Water Act you will have clean, safe drinking water. Many other countries cannot drink the water from their water plant so they drink it out of a bottle. We in the United States do not have that problem.

President Fortenberry then asked Dr. Halverson to present his report.

DIRECTOR'S REPORT

Dr. Halverson thanked President Fortenberry for his service. Dr. Halverson said that the Board would have an opportunity at the meeting to learn more about our immunization program and the influenza campaign in particular. Immunizations are one of the more important things we do in our state and we have a success story in Arkansas with our flu shot program. He acknowledged and thanked the Board for their participation because of the time given that takes them away from their work and family. He expressed appreciation for their attendance and giving us the opportunity to provide an overview of what we do. He said the meeting also allows time for the Board members to talk among themselves and with staff on an informal basis. If you do have questions, please let us know and we will be happy to try to answer them.

Dr. Halverson said that one of the great privileges of being your State Health Officer is from time to time being able to recognize people who make a great contribution to public health. Among our Board members, we have an individual who over the past thirty years plus has given of himself for public health. That individual is Dr. Terry Yamauchi. He recently received from the CDC the award for exceptional service in the education of infection control and prevention personnel worldwide for more than thirty years. Terry has taught a week long course at the CDC attended by physicians and infection control practitioners every summer for 30 years. This is seen as one of the bedrock classes at the CDC. The hospital infection program has been one of the programs that put the CDC on the map. It is a privilege when we have the opportunity to acknowledge one of our own. In addition to his service on this Board and what he does for the CDC, he is a faithful person to attend the ACIP committee, a committee that sets the immunization for the entire country, and Terry is frequently looked upon for advice and consultation. He represents the United States in the World Health Organization and has done that for a number of years. Dr. Halverson asked that the Board join with the CDC in acknowledging and thanking Dr. Yamauchi for his years of service and a job well done.

Dr. Halverson made a motion for the acknowledgement of Dr. Yamauchi. It was seconded. The motion carried. The meeting was adjourned.

After the adjournment of the business meeting on November 4, 2010, it was discovered that another business item had been overlooked at the regular business meeting and the president asked for the Board to reconvene for a short business meeting at 4:10 p.m., November 4. Dr. John Senner, Director of the Center for Public Health Practice, explained that the law establishing the Cancer Registry requires that the Board of Health approve any data sharing from the registry with any other entity. The Arkansas Center for Health Improvement (ACHI) has asked that all the Cancer Registry Data at ADH be shared with ACHI. Dr. Senner explained that this shared data will be a good step in promoting cancer prevention and control and that the ADH Science Advisory Committee recommends that the data be shared. Mr. George Harper moved for approval of sharing the data with ACHI and Dr. Anika Whitfield seconded. The motion carried with Dr. Thompson and Dr. Halverson abstaining.