

**QUARTERLY MEETING OF THE
ARKANSAS STATE BOARD OF HEALTH**

October 20, 2016

MEMBERS PRESENT

Jim Lambert, President
Nathaniel Smith, M.D., MPH, Secretary
Perry Amerine, O.D.
Gary Bass, Pharm.D.
Miranda Childs-Bebee, D.D.S.
Lawrence Braden, M.D., (via phone)
Glen "Eddie" Bryant, M.D.
Clark Fincher, M.D.
George A. Harper, J.D.
Lee Johnson, M.D.
Susan Jones, M.D. (via phone)
Thomas Jones, R.S.
Robbie Thomas Knight, Ph.D.
Catherine Tapp, MPH
P. J. Walker, MSN, CADC (via phone)
Susan Weinstein, DVM
James Zini, D.O.

MEMBERS ABSENT (Excused)

Greg Bledsoe, M.D.
Alan Fortenberry, P.E.
Beverly Foster, D.C.
Anthony Hui, M.D.
Anika Whitfield, D.P.M.
Terry Yamauchi, M.D.

GUESTS PRESENT

Joseph Bates, M.D, Deputy State Health Officer
Stephanie Williams, Deputy Director for Public Health Programs
Namvar Zohoori, MD, Deputy Chief Science Officer
Don Adams, Director, Local Public Health
Robert Brech, General Counsel
Elizabeth Harris, Deputy General Counsel
Dirk Haselow, M.D., Ph.D., State Epidemiologist
Glen Baker, M.D., Director, Public Health Lab
Xavier Heard, Director, Human Resources
Greg Brown, Branch Chief, Preparedness/Trauma
Mike Wilson, EOC, Technical Manager
Kelli Kersey, Section Chief, Cosmetology and Massage Therapy
James Bledsoe, M.D., Chief Physician Specialist
James Joiner, P.E., Facility Engineer
Bernard Bevell, Section Chief, Radiation Control
Renee Mallory, Center Dir. for Health Protection
Connie Melton, Branch Chief, Health Systems Licensing & Regulation
Ron Brown, Epidemiologist, AR Cancer Registry
Warren Bankson, Sr. Project Leader IT
Michael Kincaid, IT Chief Information Officer
Haley Ortiz, ADH Health Policy Director
Marisha DiCarlo, Ph.D., Director Health Communications
Rene Montgomery, Branch Chief, Infectious Disease
Tiffany Vance, Assoc. Branch Chief
Juana Brown, Blytheville School of Cosmo.
Nancy Cox, Legal

MEETING OF THE ARKANSAS STATE BOARD OF HEALTH

The meeting of the Arkansas State Board of Health was held Thursday, October 20, 2016, in the Ouachita Room of DeGray Lake Resort State Park, Bismarck, Arkansas. With Dr. Larry Braden, P.J. Walker and Dr. Susan Jones participating by teleconference, there was a quorum and the meeting was called to order at approximately 10:05 a.m.

APPROVAL OF MINUTES

President Lambert entertained a motion for approval of the July 20, 2016, Quarterly Meeting minutes, and the Special Meeting minutes of the Arkansas Cancer Registry held on September 28, 2016. Dr. Susan Weinstein made a motion to accept the minutes. Dr. Childs-Bebee seconded the motion. The motion passed and the minutes were approved as presented.

OLD BUSINESS

Final Approval of Amendment of the Rules and Regulations Pertaining to the Management of Medical Waste from Generators and Healthcare Related Facilities

Mr. Robert Brech, General Counsel, stated that this item has not been before the rules subcommittee, but conditional approval is requested today and should be on the rules agenda for next month. If conditional approval is given today to pass this rule pending a favorable review by the rules committee, this could be finalized and in place by mid-November instead of waiting until January or February to be finalized. This change has to do with whether or not medical waste transporters have to weigh each container when the container is picked up.

Dr. Perry Amerine asked if his understanding was correct that what the Board approves in writing, this particular rule will not be able to be modified when it gets to the rules committee. Mr. Brech stated that if it were to be changed it would have to come back to the Board.

President Lambert entertained a motion for conditional approval pending the approval by the rules committee. Dr. Amerine made a motion that the Board approve the amendment as written. Dr. Bryant seconded the motion and the motion passed.

Final Approval of Rules and Regulations For Emergency Medical Services

Mr. Greg Brown, Branch Chief, Preparedness/Trauma, came before the Board asking for final approval of the community paramedic rules and regulations. These rules basically allow for paramedics to work in the in-home setting, working with patients who have recently been discharged from hospitals to decrease the amount of re-admissions to hospitals. Dr. Lee Johnson made a motion to approve the rules and regulations for EMS. Dr. Eddie Bryant seconded the motion and the motion carried.

Final Approval of Revisions to the Rules and Regulations Pertaining to Reportable Disease

Dr. Dirk Haselow, Arkansas State Epidemiologist, came before the Board asking for final approval of the rules that have gone through the rule-making process. These are revisions to the reportable disease list to agree with what has been nationally proposed by the Council of State and Territorial Epidemiologists. Dr. Susan Weinstein made a motion to approve. Dr. Miranda Childs-BeBee seconded the motion and the motion carried.

Appeal of Cosmetology Technical Advisory Committee's Decision

Ms. Elizabeth Harris, J.D., Deputy General Counsel, came before the Board in the matter of Arkansas Department of Health v. Blytheville School of Cosmetology. Ms. Harris reported that Ms. Brown has not yet arrived and asked to defer this item until Ms. Brown arrives.

After proceeding with the remaining agenda items, President Lambert asked Ms. Harris if she wanted to go back to the appeal of the Cosmetology Technical Advisory Committee decision and she replied that she did.

Ms. Harris gave a brief outline of Ms. Brown's case which started in October of 2014. Ms. Brown came forward and made a statement appealing her case. Mr. Harper stated that this has been going on for a long time and he understood that the Cosmetology Advisory Committee conducted hearings and found, after listening to all the evidence and looking at all the records, that the Respondent had violated the rules and regulations. This Board should give a great deal of deference to the Cosmetology group that heard all of the evidence. For that reason, I move that the Findings of Fact and Conclusions of Law be approved. Dr. Johnson seconded the motion and the motion carried.

Final Approval of Rules and Regulations Pertaining to Public Access to Auto-Injectable Epinephrine

Ms. Elizabeth Harris, J.D., Deputy General Counsel, came before the Board asking for final approval of the rules. These rules have gone through the public comment period for the second time. This time, there were no comments and the rule was successfully approved by the Joint Committee on Public Health and the Legislative Rules Committee. Dr. Amerine asked, in the face of an emergency optometrists are allowed to utilize injectable, is there any change in the status of the current optometry laws for any practitioner? Ms. Harris stated that this shouldn't change any current laws; the purpose of this law was to expand access to auto-injectable epinephrine. Dr. Bass asked if it requires a prescription for these entities to obtain the epinephrine injectable? Ms. Harris stated they don't have prescriptions per se, they have to do a certification course, but the person receiving the injection doesn't have to have a prescription. Dr. Johnson stated that whatever entity, you have to have someone write that prescription for the school, the state park or whoever it is? Dr. Smith quoted the rule, "obtain a prescription in the name of the authorized entity for epinephrine auto-injectors and acquire epinephrine auto-injectors under the prescription." Dr. Bass also asked who provides the training. If it's not the

physician that does that, is it from the State Health Department? Ms. Harris stated that we don't actually provide the training, but we approve the entities that conduct the training. Dr. Amerine asked if someone calls him at the local restaurant and says, "I need some prescription medicine, I may need to use that for a patron of mine, if I write that prescription, then I feel like I would be medically liable for the use of that prescription that I prescribed for said purpose. The physician that writes the prescription for epinephrine for the local restaurant or park, is he not liable for any adverse reaction? Ms. Harris stated that once someone comes to you and asks you to write a prescription, you would make sure they have a certificate and have been through the proper training and that should prevent any liability. Dr. Johnson stated that there is a provision on page 5 of the rules, which states, "A person or entity that in good faith renders emergency care or treatment by the use of auto-injectable epinephrine is immune from civil liability resulting from," and it lists four things.

Dr. Amerine voiced his concern that this particular situation, allowing it to take place and not knowing, as a Board member, who that approving entity is going to be, there would be a strong suggestion on my part until we know who that certifying entity is, not that it is not totally acceptable, that it would be a little premature to say, "Yes, this is all good, there's going to be someone that says it's all right." Dr. Smith stated that the national entity has to be approved by the Department of Health. We would approve that before they were allowed to do that training.

President Lambert entertained a motion to approve. Dr. Fincher made a motion to approve. Dr. Bryant seconded the motion and the motion carried with one opposed.

**Final Approval of Rules Governing the Advisory Board for
Interpreters between Hearing Individuals and Individuals
who are Deaf, Deafblind, Hard of Hearing or Oral Deaf**

Ms. Elizabeth Harris, J.D., Deputy General Counsel, stated that the purpose of the changes to these rules is to close the loop in licensure that allowed people to re-licensure without obtaining CEUs; as well as to incorporate recommendations from a subcommittee regarding levels of licensure. Dr. Weinstein made a motion to approve the rules. Mr. George Harper seconded and the motion carried.

NEW BUSINESS

**Approval of Proposed Amendment to Rules and Regulations
Pertaining to the Arkansas Prescription Drug Monitoring Program**

Ms. Elizabeth Harris, J.D., Deputy General Counsel, stated that the proposed amendment changes from weekly to daily reporting by dispensers of controlled substances to the Prescription Drug Monitoring Program. Dr. Smith added that this is something that the Department has wanted to do since the onset. We had weekly reporting because it was less expensive. The issue is the software, not an administrative burden on the pharmacists. This was grant funded and allowed us to go to daily.

Dr. Weinstein asked how this would impact veterinarians that are also under this rule. Dr. Smith stated that the reporting is from the dispenser, from the pharmacist, not from the provider. Dr. Weinstein stated that the initial law and rules was a burden to most veterinarians who prescribed from their own pharmacy or clinic. Dr. Smith asked if veterinarians were exempt from participation of PDMP. Dr. Weinstein stated she believed the rule was changed so veterinarians only were to report monthly rather than weekly. I didn't see it in the packet so that's why I'm asking. Dr. Weinstein reported that most veterinarians that dispense do not have an electronic system that automatically connects to this as pharmacists do.

Dr. Amerine asked if this concern could be researched and then get an answer and possibly vote on this at a later time this morning or some other time? President Lambert said we could but this is just starting the public process and those comments could be made during that time. It is appropriate to get that question answered during the process and maybe even challenge the staff to make sure that issue is addressed before it comes back to the Board for final approval. Dr. Amerine agreed. Dr. Bass made a motion to approve going forward. Dr. Amerine seconded the motion and the motion passed.

After continuing with the remaining agenda items, Ms. Harris returned to the questions previously posed. Ms. Harris stated, with regard to the EpiPen, the two associations that will be providing training are the Red Cross and the American Heart Association. Dr. Amerine stated that he was curious about this, since it is important and we may be the only state doing it, then just the curriculum of that educational process that the Red Cross is providing, as a Board member we are doing something special, nobody else in the nation is doing it so it would be great to see what we are educating them to do.

Ms. Harris stated that the issue on the veterinarians, the intent was to continue only requiring veterinarians to report monthly, but the Section will add specific language to make that clear. Dr. Weinstein stated she was under the impression that veterinarians had to report monthly but you are suggesting that you will add the monthly into the rules rather than daily. Ms. Harris stated that was correct. It is already weekly for most dispensaries but that's not specific in the rules.

Dr. Smith moved to amend the rules so as to specifically require veterinarians to report only monthly. Dr. Amerine seconded the motion and the motion passed.

Adoption of Agreed Order for ADH v. Randy Moldan, Paramedic

Ms. Elizabeth Harris, J.D., Deputy General Counsel, asked the Board to adopt the Agreed Findings of Fact, Conclusions of Law and Order as presented in the packet. Mr. Moldan agreed to the findings and penalty proposed by the Section of EMS. Mr. Harper made a motion to approve the findings of Fact, Conclusions of Law and Order. Dr. Fincher seconded the motion and the motion carried.

Approval of Local Grant Trust Fund Funding

Mr. James Joiner, P.E., outlined the recommendations of the Subcommittee meeting of September 29, 2016. The major grants for new construction and renovations totaled \$640,000.00 for Franklin, Conway, Pulaski and Hot Spring Counties. There were two minor grants for Faulkner County and Madison County totaling \$20,000.00. Dr. Johnson made a motion to approve funding. Dr. Childs-BeBee seconded the motion and the motion carried.

Approval of Appointment to Cosmetology Technical Advisory Committee

Ms. Kelli Kersey, Section Chief, Cosmetology and Massage Therapy Section, stated that a Committee member had to withdraw for health reasons, and she is before the Board today asking for approval to appoint Lois Ware from Arkadelphia to the Committee. Dr. Weinstein made a motion to approve the appointment. The motion was seconded and the motion carried.

Approval of Active Consent Request for Release of Data from the Arkansas Central Cancer Registry

Mr. Ron Brown, Epidemiologist, Arkansas Central Cancer Registry, came before the Board requesting approval to release data requested from a researcher that wants to look at data from the Central Cancer Registry for the last fourteen years that are available for breast, colorectal, prostate and lung cancers. The goal is to evaluate the trends in racial disparities in these cancers in Arkansas. Ms. Catherine Tapp made a motion to approve. Dr. Childs-BeBee seconded the motion and the motion carried.

Approval of Exemption to Rules and Regulations For Control of Sources of Ionizing Radiation

Ms. Connie Melton, Branch Chief, Health Systems Licensing & Regulation, came before the Board for the Section of Radiation Control asking for an exemption to the Rules and Regulations for Control of Sources of Ionizing Radiation. This is one specific exemption for one specific device for one specific standard in the rules. The device is a Germanium Gallium 68 Generator which is a portable device used by nuclear pharmacies to create isotopes which are injected into patients to assist with tumor identification during tests such as a PET scan. The exemption is to extend to the nuclear pharmacies and others who use this device from having to fund a decommissioning plan, if they have an agreement with the manufacturer of the device to return the device to the manufacturer when no longer in use by the entity. President Lambert asked if they don't, they have to have the decommissioning plan? Ms. Melton stated that was correct. Dr. Amerine asked what happens if the manufacturer goes out of business and isn't in a position to assume responsibility? Ms. Melton replied that they would have to fund the decommissioning of that device. Dr. Bryant made a motion to approve. Dr. Weinstein seconded the motion and the motion carried.

**Approval of Revisions to the Rules and Regulations Pertaining
To Reportable Disease**

Ms. Rene Montgomery, Branch Chief Infectious Disease, asked the Board for approval for a change to the sexually transmitted disease section of the rules and regulations for reportable diseases. We want to have added to the reportable disease list, as a clarification to our reporting entities, perinatal HIV. In addition to that, we would like to request perinatal HIV testing for all pregnant women be completed using current generation testing and be reported during the third trimester to determine exposure to the fetus and any unknown positive women. The second important thing is we are trying to make sure that there aren't any gray areas in terms of providers understanding that the current rule language does not change who is responsible for reporting. The current comprehensive list of those who are required and the specific time parameter for reporting remains the same. Dr. Johnson made a motion to approve the change. The motion was seconded and the motion carried.

President's Report


President Lambert thanked all the Board members for their time this year. We had some interesting meetings during the year and a lot of agenda topics. I appreciate your focus and attention to input. It's good to have discussion on issues so that we get clarity and ideas on the table so we all feel like we can call the decision appropriately.

Director's Report

Dr. Smith stated that there was an excellent line-up of topics for the educational sessions today and tomorrow. I encourage everyone to participate and I look forward to the opportunity to interact with everyone during the educational session.

There was no further business to come before the Board and Mr. Harper made a motion to adjourn. The meeting was adjourned at the hour of 11:00 a.m. on Thursday, October 20, 2016.

Respectfully submitted,



Nathaniel Smith, M.D., MPH
Director and State Health Officer

January 26, 2017