

**MINUTES OF THE QUARTERLY MEETING
ARKANSAS STATE BOARD OF HEALTH
OCTOBER 28, 2021**

MEMBERS PRESENT

Balan Nair, MD, President
Lane Crider, PE, President-Elect
José Romero, MD, FAAP, FIDSA, FPIDS,
FAAAS, Secretary of Health
Greg Bledsoe, MD, Surgeon General
Perry Amerine, OD
Loy Bailey, RS
Stephanie Barnes
Marsha Boss, PD
Eddie Bryant, MD
Dwayne Daniels, MD
Brad Erney, MD
Melissa Faulkenberry, DC
Darren Flamik, MD
Phillip Gilmore, PhD, MS, MHA
Anthony Hui, MD
Donald Ragland
Mike Riddell, MD
Clay Waliski
Susan Weinstein, DVM
Terry Yamauchi, MD
James Zini, DO

MEMBERS ABSENT

Vanessa Falwell (excused)
David Kiessling, MD
Mellie Bridewell

GUESTS PRESENT

Renee Mallory, ADH, Chief of Staff
Dr. Jennifer Dillaha, ADH, Chief Medical Officer
Dr. Bala Simon, ADH, Deputy Chief Medical Officer
Dr. Naveen Patil, ADH, Deputy State Health Officer
Cristy Sellers, ADH, Director, Center for Health
Advancement
Shelly Matthews, ADH, Women's Health Program
Kelli Kersey, ADH, Cosmetology and
Massage Therapy
Shane David, ADH, Pharmacy Services
Paula Day, ADH, Health Facility Services
Beth Williams, ADH, Health Facility Services Branch Chief
Connie Melton, ADH, Director, Center for Health Protection
Matt Gilmore, ADH, Coordinator, Boards
Christy Kresse, ADH, Emergency Medical Services
Terry Paul, ADH, Environmental Health Branch Chief
Bernie Bevill, ADH, Radiation Control
Alex Hooper, ADH, Personal Care
Laura Bailey, ADH, Office of Alcohol Testing
Laura Shue, ADH, General Counsel
Reginald Rogers, ADH, Deputy General Counsel
Charles "Chuck" Thompson, ADH, Managing Attorney
Brooks White, ADH, Attorney
Brian Nichols, ADH, Attorney
S. Craig Smith, ADH, Attorney
Tressa Williams, ADH, Legal Services Specialist
Michael St. Clair, ADH, Law Clerk, Legal
Jay Wilkins, ADH, Law Clerk, Legal
Brooke Blackwell, ADH, Extern, Legal
Adam Childers, Attorney
Degan Clow, Attorney

The quarterly meeting of the Arkansas State Board of Health was held on Thursday, October 28, 2021, in the Dr. Joseph H. Bates Professional Education Auditorium at the Arkansas Department of Health, 4815 West Markham Street in Little Rock, Arkansas.

CALL TO ORDER

Dr. Balan Nair, President, called the meeting to order at approximately 10:00 a.m. and asked for a roll call. General Counsel Laura Shue conducted the roll call.

APPROVAL OF MINUTES

Loy Bailey asked that the Minutes be corrected to reflect he previously served on the Board of Health from late 90's to 2004. Dr. Sue Weinstein moved, and Dr. James Zini seconded that the Minutes be accepted with correction. Motion carried by unanimous vote.

OLD BUSINESS

Nomination for President for 2023

Dr. Nair stated changes to the selection of Board President for 2023 have been adopted by the Nominating Committee. A formal call has been made for nominations for President for 2023 and nominations must be submitted by this meeting. The Nominating Committee will meet later and review the applications. The Committee will make a recommendation, which will be forwarded to each Board member at least 30 days prior to the January meeting and a formal vote will be taken.

Updates to By-Laws

Ms. Shue reported that the Board of Health By-Laws were last updated in 2020. Due to the Legislative Session, changes were made to the Board's power. A revision will be sent to the Board prior to the January meeting for review and formal vote will be taken at that time.

NEW BUSINESS

Licensed Lay Midwife Data Summary Report

Ms. Shelly Matthews, ADH, Women's Health presented the above report. She gave an outline of the numbers in the report.

Dr. Mike Riddell stated it appears women who transferred out of intra-partum care was about one out of six. Ms. Matthews stated she has not done the exact math, but it is listed in the report.

Dr. Riddell asked what occurs when patients are unable to deliver at home. Ms. Matthews stated if the client requests an epidural, they will be transferred by private vehicle. If it is an emergent event, an ambulance would be called. The client would be transported to a hospital through the Emergency Department and then transported to Labor and Delivery for care and service.

Dr. Riddell asked about the financial structure of the program. Ms. Matthews stated she did not have that information. Dr. Nair asked that Ms. Matthews gather that data and present offline. Dr. James Zini stated he would like that information also.

No vote was required.

Cosmetology Technical Advisory Committee Appointments

Ms. Kelli Kersey, ADH Section Chief, Cosmetology and Massage Therapy Section, presented Erin McGinnis and Rita Kay Stone for approval to serve on the Cosmetology Technical Advisory

Committee. Mr. Donald Ragland moved, and Dr. Zini seconded that the appointments be approved. Motion carried by unanimous vote.

Massage Therapy Technical Advisory Committee Appointment

Ms. Kersey presented an appointment for approval. Seven names were previously submitted in July. One member was not eligible; therefore, Lamar Anderson was presented as a replacement. Dr. Riddell moved, and Dr. Anthony Hui seconded that the appointment be approved. Motion carried by unanimous vote.

Massage Therapy Rules

Ms. Kersey presented the above revised rules for approval. Dr. Riddell moved, and Dr. Melissa Faulkenberry seconded that the rules be approved. Motion carried by unanimous vote.

Controlled Substance List

Mr. Shane David, ADH Director, Pharmacy, presented the above revised list for approval. Pursuant to Act 514, Schedule VI language was updated.

Dr. Nair asked how is ADH able to maintain and stay current with the ever-changing landscape of controlled substances.

Mr. David stated they meet regularly with the Arkansas State Crime Laboratory and get input from other outside agencies as to what substances are currently affecting Arkansas. They meet with them to determine if there are any new prospects and quite a bit of research is done to outline and see new potential public health matters of controlled substances that are on the market.

Dr. Terry Yamauchi asked how new substances are brought before the Pharmacy Board. Mr. David stated the FDA produces an updated list of approved medications every month. Typically, on controlled substances, the DEA will have some time through the National Institute on Drug Abuse to come up with a process to determine the addictive potential of them.

Dr. Yamauchi asked if that includes vaccines. Mr. David said vaccines undergo an approval process through the FDA; however, in this instance, the DEA and their list to addiction potential medications is being referred to.

Dr. Zini moved and Mr. Ragland seconded that the list be approved. Motion carried by unanimous vote.

Radiologic Technology Licensure Rules

Mr. Bernie Bevill, ADH Section Chief, Radiation Control, presented the above revised rules for approval. Dr. Weinstein moved, and Dr. Perry Amerine seconded the approval of the rules. Motion carried by unanimous vote.

Perfusionists Rules

Ms. Paula Day, ADH Section Chief, Health Facility Services, presented the above revised rules for approval. Dr. Weinstein moved, and Dr. Riddell seconded that the rules be approved. Motion carried by unanimous vote.

Orthotic, Prosthetic, and Pedorthic Providers Rules

Ms. Day presented the above rules for approval. Dr. Weinstein moved, and Dr. Zini seconded that the rules to approved. Motion carried by unanimous vote.

Hospice Rules

Ms. Day presented the above revised rules for approval. Dr. Zini moved, and Mr. Clay Waliski seconded that the rules be approved. Motion carried by unanimous vote.

Home Health Agencies Rules

Ms. Day presented the above revised rules for approval. Dr. Dwayne Daniels moved, and Dr. Weinstein seconded the approval of the rules. Motion carried by unanimous vote.

Hospitals and Related Institutes Rules

Ms. Day presented the above revised rules for approval. Dr. Riddell moved, and Dr. Weinstein seconded that the rules be approved. Motion carried by unanimous vote.

Critical Access Hospitals Rules

Ms. Day presented the above revised rules for approval. Dr. Weinstein moved, and Dr. Zini seconded that the rules be approved. Motion carried by unanimous vote.

Abortion Facilities

Ms. Day presented the above revised rules for approval. Dr. Weinstein asked are there any abortion facilities where there is not a hospital within 30 miles. Ms. Day replied not currently. Dr. Daniels moved, and Mr. Ragland seconded that the rules be approved. Motion carried by unanimous vote.

Free-Standing Birthing Centers Rules

Ms. Day presented the above revised rules for approval. Dr. Riddell moved, and Dr. Weinstein seconded that the rules be approved. Motion carried by unanimous vote.

Medical Marijuana Registration, Testing and Labeling

Mr. Alex Hooper, ADH Branch Chief, Personal Care Services, presented the above revised rules for approval. Dr. Boss asked if Amendment 98 was the law passed regarding medical marijuana. Mr. Hooper stated Amendment 98 was the original amendment. Act 1112 of 2021 addressed telehealth for certification.

Mr. Charles Thompson, ADH Managing Attorney, stated that Act 1112 passed toward the end of the session and provides for telehealth renewals of physician written certifications for medical marijuana. Dr. Boss asked if the Act said it can be given if they have originally been seen in person. Mr. Thompson stated that is correct.

Dr. Nair asked how often the testing needs to be done. Mr. Thompson replied it depends on the which item being referenced.

Mr. Lane Crider asked, on the amended text regarding license versus approved, is ADH approval conditioned upon a license being held by the lab. Mr. Thompson stated they must be approved by the proper accrediting authority.

Dr. Anthony Hui moved, and Mr. Ragland seconded that the rules be approved. Motion carried by unanimous vote.

Emergency Medical Services Rules

Ms. Christy Kresse, ADH Section Chief, Emergency Medical Services, presented the above revised rules for approval.

Dr. Weinstein stated she serves as the veterinarian representative on the Board and her question is concerning the transportation of police dogs and giving the Emergency Medical Services Providers (EMSP) permission to do a variety of things to include providing euthanasia.

After much discussion and assurances that the section will be removed for further revision to address concerns, Dr. Riddell moved to approve the Emergency Medical Services rules except for the transportation and care of police dogs. Drs. Zini and Gilmore seconded. Dr. Bledsoe asked for clarification on what the Board was approving. Dr. Nair stated the remainder of the rules. Motion carried by unanimous vote.

Licensed Lay Midwifery Rules

Mr. Thompson presented the above revised rules for approval. Dr. Gilmore moved, and Dr. Zini seconded the approval of the rules. Motion carried by unanimous vote.

Interpreter Rules

Mr. Thompson presented the above revised rules for approval. Dr. Weinstein moved, and Dr. Gilmore seconded to approve the rules. Motion carried by unanimous vote.

Septic Tank Cleaners Rules

Mr. Terry Paul, ADH Branch Chief, Environmental Health, presented the above revised rules. Mr. Ragland moved, and Mr. Bailey seconded the approval of the rules. Motion carried by unanimous vote.

Onsite Wastewater Systems Rules

Mr. Paul presented the above revised rules for approval. Dr. Weinstein moved, and Dr. Zini seconded to approve the rules. Motion carried by unanimous vote.

Plumbing Licenses Rules

Mr. Paul presented the above revised rules for approval. Dr. Hui moved, and Mr. Bailey seconded the approval of the rules. Motion carried by unanimous vote.

Gas Fitters and Gas Utility Licenses Rules

Mr. Paul presented the above revised rules for approval. Mr. Crider moved, and Dr. Daniels seconded for approval of the rules. Motion carried by unanimous vote.

Alcohol Testing Rules

Ms. Laura Bailey, ADH Environmental Branch Chief Director, Office of Alcohol Testing presented the above revised rules for approval. Dr. Riddell moved, and Dr. Weinstein seconded that the rules be approved.

Plumbing Examiner's Committee Hearing

Mr. Brian Nichols, ADH Attorney, presented the above appeal of an administrative hearing. Mr. Adam Childers appeared representing the Respondent, Michael Rogers. A hearing was held before the committee on June 4, 2021 and the committee decision was finalized by Order dated June 15, 2021 with four violations being presented. The Plumbing Committee recommended a 90-day suspension of Mr. Rogers license and a \$4,000 fine.

After discussion of the appeal and committee's findings, Mr. Crider made a motion to approve the findings of fact and conclusions of law as the committee recommended for the \$4,000 fine but amend the suspension to 45 days. Dr. Hui seconded the motion. Motion carried by unanimous vote.

Proposed Findings of Fact, Conclusions of Law, and Order

Mr. Brooks White, ADH Attorney, presented an EMS disciplinary case that was heard on October 15 involving Mr. Sam Bradway. Mr. Bradway was not in attendance. Mr. White gave the facts surrounding the case and presented the findings of fact, conclusions of law and order. Mr. White stated the proposed findings and conclusion would require him to complete the same program that all drug offenders have to complete.

Dr. Bledsoe moved and Dr. Zini seconded that the proposed order be approved. Motion carried by unanimous vote.

OTHER BUSINESS

Administrative Updates

Dr. Nair introduced Dr. Bala Simon who gave a brief discussion about the dashboard of ADH's performance measures and the depth and scope of its functions. Dr. Simon stated a more detailed update will be given at the January Board of Health meeting.

Centers/Office Updates

Dr. Nair reported that Renee Mallory had been promoted to Chief of Staff.

PUBLIC HEALTH SCIENCE/PROGRAM UPDATES

STI/STD Update

Dr. Naveen Patil, ADH Deputy State Health Officer, gave a presentation on sexually transmitted infections.

Dr. Nair asked how cases are detected within the prison population. Dr. Patil stated when an inmate enters the prison population, they are tested for HIV, sexually transmitted diseases, and Hepatitis C.

Dr. Nair asked whether ADH takes care of the treatment. Dr. Patil responded no. The Department of Correction contracts with a private vendor who provides the medical care contract.

Dr. Romero stated this year, Arkansas became one of the few states that requires maternal Hep C testing. The significance of that is it is greater than just the mother. We are poised now because of the testing in mothers that we can follow these children and make sure we can establish whether they are infected or not.

PRESIDENT'S REPORT

Dr. Nair commented on coming to an end to another year with another wave of COVID passing and possibly more waves to come. The number of infections seems to be declining although hospitalizations remain high.

He stated this would be his last meeting as Board Chair. At the next meeting, we will welcome Mr. Lane Crider as the Board Chair for 2022.

SECRETARY'S REPORT

Dr. Romero gave an update on COVID. The summer peak is on a downward trend regarding cases. Several developments are being watched, one being Delta Plus. This is a virus that has other mutations that make it more transmissible.

Dr. Romero also gave an update on vaccines. We are about 54% totally immunized. We have plateaued at 50% of the adolescent group receiving the vaccine and 40% fully vaccinated at this time.

Meeting adjourned at 12:35 p.m.


José Romero, MD, FAAP, FIDSA, FPIDS,
FAAAS, Secretary of Health