

**MINUTES OF THE QUARTERLY MEETING  
ARKANSAS STATE BOARD OF HEALTH  
July 22, 2021**

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

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

**GUESTS PRESENT**

Dr. Jennifer Dillaha, ADH, Chief Medical Officer  
Dr. Bala Simon, ADH, State Chronic Disease Director  
J. Don Adams, ADH, Deputy Director, Administrative  
Operations  
Cristy Sellers, ADH, Director, Center for Health  
Advancement  
Shirley Louie, ADH, Director, Center for Public Health  
Practice  
Ashley Whitlow, ADH, Epidemiology Supervisor  
Matt Gilmore, ADH, Coordinator, Boards  
Lynda Lehing, ADH, Health Statistics Branch Chief  
Terry Paul, ADH, Environmental Health Branch Chief  
Shelly Matthews, ADH, Women's Health Program  
Nurse Facilitator  
James Joiner, ADH, Facility Engineer Supervisor  
Robin Michaels, ADH, Pollution Control Inspector  
Jake Chatman, ADH, Engineer, Environmental Health  
Glenn Greenway, ADH, Engineer Supervisor  
Jeff Stone, ADH, Director, Engineering Section  
Jerry Kopke, Bois D'Arc Waterworks  
Alex Hooper, ADH, Branch Chief  
Jamie Turpin, ADH, PDMP Administrator  
Chelsea Clay, ADH, Epidemiology  
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

The quarterly meeting of the Arkansas State Board of Health was held on Thursday, July 22, 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 10:01 a.m. and asked for a roll call. Deputy General Counsel Reginald Rogers conducted the roll call.

## **APPROVAL OF MINUTES**

Dr. Sue Weinstein said she was not listed as present. There being no other corrections, Dr. Mike Riddell moved, and Dr. James Zini seconded, that the minutes of the April 22, 2021, quarterly meeting be accepted. Motion carried by unanimous vote.

## **OLD BUSINESS**

### ***Nomination Committee Procedure***

Presented by Dr. Phillip Gilmore. Dr. Gilmore stated the revisions to the Nominating Committee procedure streamlined the process for officers. Mr. Rogers stated Mr. Crider had modifications.

Dr. Perry Amerine moved, and Dr. Eddie Bryant seconded that the Nomination Committee Procedure be accepted as revised. Dr. Bryant suggested changing the term from medical doctor to physician. After discussion, the motion carried unanimously to accept the nominating committee changes as revised.

### ***New Board of Health Members***

Mr. Rogers introduced two new Board members. Melissa (Mellie) Bridewell, Director of the Office of Strategic Management, serves as the Arkansas Rural Health Partnership's Chief Executive Officer, working for UAMS.

Mr. Loy Bailey is the Local Health Unit Administrator of the Benton County Unit and has worked for the Department of Health for approximately 44 years. He previously served on the Board of Health from the late 1990's until 2004.

## **NEW BUSINESS**

### ***Local Grant Trust Fund Awards***

Mr. James Joiner, ADH Facility Engineer Supervisor, presented the above awards for approval. He stated the local grant trust fund is an award fund funded through the Health Department by the Board of Health that gives grants for major and/or minor projects. A subcommittee, comprising of Mr. Donald Ragland, Dr. Sue Weinstein, Mr. Loy Bailey, and Dr. Mike Riddell, met on June 23, 2021, and recommended the following awards. An additional award of \$123,400 to Clark County, Arkadelphia for extensive renovation. An additional award of \$200,000 to Randolph County for a new facility. Finally, a minor award to Jackson County, Newport, in the amount \$10,000 to replace flooring throughout the health unit. The county will be adding \$2,500.

Dr. Weinstein moved, and Mr. Ragland seconded that the recommendations be approved. Motion carried by unanimous vote.

### ***Rules for Control of Sources of Ionizing Radiation***

Mr. Bernard "Bernie" Bevill, ADH Section Chief, Radiation Control, presented the above rules for approval. The radiation control section regulates the possession and use of x-ray machines, accelerators, and radioactive material in the state of Arkansas.

Dr. Riddell asked if this was related to the nuclear plant. Mr. Bevill replied that it is not.

Dr. Nair asked if it changes the inspection period or frequency. Mr. Bevill replied no, x-ray inspections are conducted every 3-5 years and radioactive material licenses are inspected every 1-5 years, depending upon the category of risks for each licensee.

Dr. Riddell moved and Dr. Hui seconded that the rules be approved. Motion carried by unanimous vote.

### ***Rules Pertaining to Drip Dispersal Systems***

Mr. Terry Paul, ADH Section Chief, Environmental Health, presented the above rules for approval. This rule is a type of dispersion of treated effluent like an underground irrigation system.

Dr. Eddie Bryant asked, under Section 3.1.7, whether it eliminated the three-acre lot size requirement. Mr. Paul replied no, this is in the drip rule. That is unrelated.

Mr. Bailey referenced the water usage rate. Mr. Paul stated that was changed from 400 to 370 gallons to match the effluent flow from a three-bedroom home.

Dr. Bryant asked about the estimation of usage, is it based on bedrooms and not facilities or bathrooms? Mr. Paul replied septic systems are sized on the number of bedrooms because there is no consistent way to know how many people will be living in a home.

Mr. Bailey moved, and Dr. Weinstein seconded that the rules be approved. Motion carried by unanimous vote.

### ***Rules Pertaining to Retail Food Establishments***

Mr. Paul presented the above rules for approval which is an update to the food service rules for the adding of the cottage food language. Item e, regarding kitchens or private homes, allows some types of food that do not have to be heated or refrigerated to be safe to be made at home.

Prior approval was given to require food manager certification at either medium or high priority food service establishment for anyone preparing food. An establishment must comply with this section one year from opening.

Dr. Nair asked whether this applies to the Greek Food Festival or ethnic food festivals. Mr. Paul replied the festivals are usually considered non-profit and they do not fall under a particular rule because it is usually once or twice a year.

Mr. Waliski asked whether this applied to food trucks as well, particularly the ones that are not in the same location daily. Mr. Paul replied it would apply to any food preparation.

Dr. Nair asked whether those food trucks should have a certified food protection manager. Mr. Paul replied this would be a deficiency that would be cited but the establishment would not be shut down.

Dr. Riddell asked whether there are rules for disposal of grease; the variants on the thawing of food; and what is done with unsold food. Mr. Paul replied many restaurants ensure that any unsold foods are supplied out, if possible; grease is not regulated by the Health Department rather ADQ; and there are specific rules on how to thaw food.

Dr. Riddell moved and Dr. Bryant seconded that the rules be approved. Motion carried by unanimous vote.

### ***Rules Pertaining to the Arkansas Drug Monitoring Program (PDMP)***

Jamie Turpin, PharmD, ADH PDMP Administrator, presented the above rules for approval. She noted the updates that had been made and new language that was added.

Dr. Riddell stated he is concerned that surgeons tend to over prescribe opioids for post-operative use. Is it too late to make a recommendation to add someone that represents one of the surgical specialties? Dr. Turpin stated that was mandated in Act 304 of 2011. Mr. Rogers stated that will be reviewed by the Legislative Team.

Dr. Zini stated there are physician representatives on the committee and it could be handled by approaching the committee and asking them to carry it forward.

Chuck Thompson, ADH Managing Attorney, stated the statute can be reviewed to see if that needs a legislative change.

Dr. Bryant stated a recommendation can be made to the Arkansas Medical Society that they attempt to provide a surgeon as their representative.

Dr. Nair asked about patients who live at the border states who may cross over, is there a federal type of data base for those patients? Dr. Turpin replied the data now in place can be shared with other states.

Dr. Zini moved and Dr. Boss seconded that the rules be approved. Motion carried by unanimous vote.

### ***Rules and Forms for the Administration of Vital Records***

Lynda Lehing, ADH Branch Chief, presented the above rules for approval. She noted the revisions that were made.

Dr. Boss asked, on chemical abortions, if the facility gives the first dose to the mother, is that counted as a chemical abortion? Mr. Rogers replied that that would have to be researched.

Dr. Weinstein moved, and Dr. Bryant seconded that the rules be approved. Motion carried by unanimous vote.

***Cosmetology Technical Advisory Committee Appointments  
Message Therapy Technical Advisory Committee Appointments***

Alex Hooper, ADH Branch Chief, Personal Care Services, presented the above committee appointments for approval. He stated all nominees were screened for violations and were found to have none.

Dr. Riddell moved, and Dr. Zini seconded that the nominations be approved. Motion carried by unanimous vote.

***Midwife Advisory Board Nominees***

Shelly Matthews, ADH Nurse Program Facilitator, presented the above nominees for approval.

Dr. Weinstein asked about the nomination of Ms. Shaw who had been disciplined for misuse of Class II controlled substances. Ms. Matthews replied that she received a letter of reprimand from the Arkansas State Board of Nursing in December 2020 for practicing outside of her scope. They did not feel this would be of any concern. Any future disciplinary action would be public record and the Board of Health would have the authority to revoke her membership.

Dr. Riddell asked Ms. Matthews to explain the difference between a CNM and lay midwife and the midwifery bridge certificate.

Dr. Riddell moved, and Mr. Ragland seconded to approve the rules. Motion carried by unanimous vote.

***Re-appointment of County Health Officer for Drew County***

Dr. Jennifer Dillaha, ADH State Epidemiologist, presented Dr. Michael Fakouri for approval of re-appointment.

Dr. Weinstein moved, and Dr. Hui seconded the re-appointment. Motion carried by unanimous vote.

***EMS Proposed Findings and Conclusion of Law***

Brooks White, ADH Attorney, presented a proposed findings and conclusion of law regarding the licensure of Brandon Jacobs. This disciplinary matter was heard by a three-member subcommittee of the Board of Health on June 9, 2021. The subcommittee consisted of Dr. Darren Flamik, Dr. Brad Erney and Dr. Mike Riddell. This involved an EMT studying to become a paramedic; however, he started practicing as a paramedic before finishing the full licensure requirements. After reviewing the findings, the subcommittee recommended suspension from the paramedic level for twelve months; still practice as an EMT; a probationary period of 36

months after the suspension; and take an additional four hours on ethics and professionalism in continuing education.

Dr. Flamik moved and Dr. Erney seconded that the recommendations be accepted and approved. Motion carried by unanimous vote.

### ***Bois D'Arc Waterworks Proposed Findings and Conclusion of Law***

Mr. Rogers presented the above proposed findings and conclusion of law. This involves a water system located in Hempstead County that had violations and bacteriological samples that were problematic due to a lack of a water operator. Mr. Rogers recognized Mr. Jerry Kopke.

A subcommittee consisting of Mr. Lane Crider, Dr. Marsha Boss, Mr. Donald Ragland, Dr. Sue Weinstein, and Mr. Clay Waliski met on March 4, 2021 via Zoom. After the findings, the subcommittee recommended that the water system must connect to the Southwest Arkansas Water System and in the interim hire a qualified licensed operator. There are penalties totaling \$332,400 but those would be waived if the water system successfully met the requirement within six months of the final Board of Health action.

Mr. Kopke of Communities Unlimited, a non-profit organization, reported they work with small towns and rural communities with community and business development. He has met with Lillie Couch, Board President, to review the process and proposed recommendations and they are onboard to complete them.

Mr. Jeff Stone, ADH Director, Engineering Section, asked Mr. Kopke whether a decision between Bois D'Arc and Mr. Robert Chism been reached on him serving as their water operator? Mr. Kopke replied it is pending.

Dr. Zini asked if the system becomes part of the Southwest Arkansas Water System, would that be permanent? Mr. Rogers responded yes.

Mr. Waliski asked if the six-month remedy after the hearing is feasible? Mr. Kopke stated Mrs. Couch has been very cooperative in trying to get it done.

Dr. Zini moved, and Dr. Riddell seconded to accept the recommendations of the subcommittee. Motion carried by unanimous vote.

### ***Humphrey Waterworks Proposed Findings and Conclusion of Law***

Mr. Rogers presented the above proposed findings and conclusion of law. He introduced the Humphrey Mayor, Mr. Cleveland Hatch, and water operator Mr. Jimmy Stewart. A subcommittee consisting of Mr. Lane Crider, Dr. Marsha Boss, Mr. Donald Ragland, Dr. Sue Weinstein and Mr. Clay Waliski met on March 4, 2021 via Zoom. This system is in Arkansas County and has issues with water operators which lead to the lack of having sufficient samples provided. The City of Humphrey owes \$3,353.60 in public water service fees. The violations were proven, and the subcommittee proposed that Humphrey retain a fully qualified licensed operator with a treatment II and distribution I license until Mr. Stewart becomes a properly licensed and qualified water operator, install and maintain an inclusive potassium permanganate

feed system as necessary and maintain compliance with the applicable federal and state rules for at least one year. If those requirements are met, the fines against the water system totaling \$230,960 would be suspended except for \$1,000 which could be utilized for training purposes for Mr. Stewart to become a properly licensed and qualified water operator.

Dr. Boss asked where is Mr. Stewart in the licensing process? Mr. Stewart replied he has one class left in treatment, which has been scheduled.

Dr. Boss moved and Dr. Weinstein seconded that the recommendations be accepted. Motion carried by unanimous vote.

### ***Resolution for Stephanie Williams***

Dr. Phillip Gilmore, PhD, Board of Health member presented the above resolution. He stated Stephanie Williams faithfully served the Arkansas Department of Health for 31 years. The resolution outlines all her accomplishments within the Department.

Dr. Zini moved, and Dr. Riddell seconded to present Ms. Williams with the resolution. Motion carried by unanimous vote.

### ***Litigation Update***

Mr. Rogers gave an update on the matter of *Little Rock Planning Services v. Larry Jegley*. On Tuesday, July 20, 2021, the federal court issued a preliminary injunction, a copy of which was sent to all Board members. The Order specifically states, "Defendants are enjoined from failing to notify immediately all state officials responsible for enforcing the requirements of Act 302 of 2021 about the existence and requirements of this preliminary injunction. The preliminary injunction remains in effect until further orders from this court."

### ***Other Matters***

Dr. Amerine stated time should be allotted to discuss other health-related matters that affect the people of Arkansas on the agenda.

He talked about the immigration crisis and asked whether people coming into the state could be screened and tested for COVID.

Mr. Rogers stated more time is needed to review this with management and asked to defer it to a later time.

Dr. Riddell talked about presenting topics Board members are interest in being added to the agenda. Dr. Amerine added there should be time reserved to talk about those matters.

Dr. Nair stated if anyone has a particular topic ahead of the meeting, convey that to him and he will try to place it on the agenda.

## **OTHER BUSINESS**

### ***Administrative Updates***

Mr. Don Adams, ADH Deputy Director for Administration, presented the ADH 2019 financial audit. The Legislative Audit Office serves the General Assembly and its purpose is to audit all agencies annually. There was one finding relating to travel policy violations. The Department has changed internal policy to remedy that issue.

### ***Centers/Office Updates***

Dr. Turpin and Chelsea Clay, ADH Injury Epidemiologist, gave a slide presentation of Opioid Prescribing, Suicide, and Overdose Trends Before and During the Pandemic.

Dr. Flamik asked whether there is any correlation between the availability of fentanyl and the lacing of many drugs, including heroin and marijuana and is there a marker on what substance is being used in these overdoses? Dr. Turpin replied she has information broken out by drug class but not specifically fentanyl.

Dr. Nair asked is there a way to correct the opioid prescription use for the level of visibility, for example spinal cord injuries, etc.? Dr. Turpin stated they do not get diagnosis codes so there is no way to determine what that prescription is for on the analysis they perform.

Dr. Riddell stated on the suicide data, he would like information on the age, gender, method used, race, urban versus rural. He will contact Dr. Turpin later to discuss.

## **PRESIDENT'S REPORT**

Dr. Nair thanked all the Board of Health members who worked on various subcommittees.

He talked about the third wave of COVID-19 and the affect it is having on the state due to the delta variant and the large pool of unvaccinated people.

Dr. Nair stated he has been talking to Dr. Simon and Dr. Zohoori about a dashboard to present to the Board of Health members which will detail the wide range of activities and the depth of what the Department does. This should be presented at the next meeting.

He stated some of the By-Laws will need to be revised and that will be brought up at the next meeting.

Dr. Nair reiterated that any topics that need to be covered at the Board meetings, he will be happy to accommodate.

The Nominating Committee is formally seeking applications for President of the Board of Health for 2023. Submit a form and supporting packet by the October meeting.



### ***Further Discussion***

Dr. Boss asked if the topic of STDs could be placed on the agenda for the next meeting along with statistics.

Dr. Riddell asked whether the COVID vaccine can be administered with any other vaccines. Dr. Dillaha replied that one can give it with any other vaccine without regard to timing.

Dr. Boss asked if the vaccine can be given with a pneumonia vaccine. Dr. Dillaha stated you can get them at the same time.

Dr. Nair asked is there any data on booster doses. Dr. Dillaha stated there are ongoing studies about booster doses. Currently, all the variants circulating have good protection from the authorized vaccines. However, the delta variant has less protection. Over time there may be a recommendation for an additional dose. They are looking at studies about whether having a booster with a different type of vaccine would be safe and effective or whether one would want to get an additional dose of the vaccine.

Dr. Zini asked if county health offices are giving the vaccinations now at the same time to children. Dr. Dillaha replied she has not verified that, but arrangements can be made for any of the county health offices that would like to receive the vaccines.

Dr. Boss asked if there is a committee at the ADH in charge of publicity to get more people vaccinated. Dr. Dillaha replied we do have an Office of Communications and they are doing that. Local hospitals or healthcare providers can do their own videos and share them and that may be even more powerful than what we do at the state level.

Mr. Waliski asked about separating people by vaccination status. Dr. Dillaha stated we do need to put that out there so people can see the proportion of people who are unvaccinated and get sick, end up in the hospital and/or die.

Dr. Weinstein stated that information about the percentage of people who are hospitalized is readily available. The Health Department has done an incredible job of putting out information of trying to convince people to get vaccinated.

Dr. Dillaha stated the trend in vaccinations is going up. One of the concerns is the spread of the delta variant. It is the predominant variant that is circulating. It is more easily spread; it causes more severe disease, and it puts people in the hospital at younger ages.

Dr. Boss asked are the younger people in the hospital and dying young because they are unvaccinated? Dr. Dillaha stated it is mostly unvaccinated people.

Mr. Rogers introduced the newest attorney to the Legal Department, Mr. Craig Smith.

Meeting adjourned at 12:36 p.m.

A handwritten signature in cursive script, appearing to read "Balan Nair".

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Balan Nair, MD, President  
Arkansas State of Health