

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

April 25, 2019

MEMBERS PRESENT

James Zini, D.O., President
Nathaniel Smith, M.D., MPH, Secretary
Phillip Gilmore, Ph.D., President-Elect
Susan Weinstein, DVM
David Kiessling, D.P.M.
Thomas Jones, R.S.
Marsha Boss, Pharm. D.
Greg Bledsoe, M.D.
Terry Yamauchi, M.D.
Perry Amerine, O.D.
Lawrence Braden, M.D. (via phone)
Alan Fortenberry, P.E.
Glen "Eddie" Bryant, M.D. (via phone)
Beverly Foster, D.C. (via phone)
Catherine Tapp, MPH (via phone)
Mike Riddell, M.D. (via phone)
Susan Ward-Jones, M.D. (via phone)
Vanessa Falwell, APRN
(via phone)

NOT PRESENT:

Miranda Childs-Beebe, D.D.S.
Anthony Hui, M.D.

GUESTS PRESENT

Reginald A. Rogers, Deputy General Counsel
James Bledsoe, M.D., Medical Dir., EMS/Trauma
Don Adams, Dir., Center for Local Public Health
Marisha DiCarlo, Ph.D., Dir. Health
Communications
Meg Mirivel, Public Information Specialist
Kristyn Vang, Cancer Epidemiologist
Jeff Stone, ADH
Mandy Thomas, ADH
Martin Nutt, ADH
Phillip K. Graham
Lynda Lehing, ADH, Branch Chief of Health
Statistics
Shane David, Pharm. D., Dir. Pharmacy Services
Namvar Zohoori, M.D., Chief Science Officer
Laura Shue, General Counsel
Ann Purvis, Deputy Director for Administration
Dr. Appathurai Balamurugan, ADH
Mike Wilson, ADH
Shirley Louie, Director for Center for Public
Health Practice
Stephanie Williams, Deputy Dir. Public Health
Programs
Connie Melton, Branch Chief, Health Systems
Licensing/Certification Branch
Dr. Austin Porter, Deputy Chief Science Officer
Brooks White, Administrative Law Judge
Chuck Thompson, Managing Attorney, ADH
Jessica Upchurch, Administrative Specialist
Anna Hurst, Legal Services
Theresa Griffin, Legal Services

MEETING OF THE ARKANSAS STATE BOARD OF HEALTH

The quarterly meeting of the Arkansas State Board of Health was held Thursday, April 25, 2019, in the Charles Hughes Board Room of the Freeway Medical Building in Little Rock, Arkansas.

CALL TO ORDER

President James Zini called the meeting to order at approximately 10:01 a.m. The following members participated via teleconference: Dr. Lawrence Braden, Dr. Eddie Bryant, Dr. Beverly Foster, Ms. Catherine Tapp, Dr. Mike Riddell, and Dr. Susan Ward-Jones.

APPROVAL OF MINUTES

Dr. Zini asked if there were any corrections needed for the minutes of January 24, 2019. A correction was made on page 7, last paragraph (the word "more" was removed). Dr. Sue Weinstein made a motion for acceptance of the minutes as amended. The motion was seconded by Mr. Thomas Jones. The motion carried unanimously.

OLD BUSINESS

Dr. Zini thanked the Board for considering the change of date for the next Board meeting, after proposing that the meeting date change from July to August 1. There was no opposition, so Dr. Zini moved that the meeting date be set to August 1, 2019. Dr. Smith seconded. Motion carried unanimously.

Ms. Laura Shue introduced Theresa Griffin as the new Board of Health Liaison. Ms. Griffin is part of the new legal staff for ADH. Ms. Shue also presented members of the Board with a copy of the committee sign-up sheet as a reminder of what each member chose at the last meeting.

Legislative Update

Ms. Shue reported that the Department promoted ten bill proposals during the legislative session, six of which passed. The Acts included the following: Act 829, which creates a committee for Maternal Mortality Review; Act 1032, which creates a committee for Perinatal Outcomes Quality Review; and Act 788, which increases the fee for safe drinking water from .30 cents to .40 cents. The Department also assisted in enacting Act 889, which provides for changes to Plumbing and Health Facilities Plan Review, resulting from two bills combined by Senator Bart Hester; Act 605, which adds access to a federal prescription drug monitoring program; and Act 312, removing a tuberculosis test from massage therapy licensing requirements.

Ms. Shue stated that the Department programs submitted the initial proposals last summer, drafted the ideas into bills, and were pleased to get the six acts passed through the entire legislative process. The Department also conducted a successful bill review procedure utilizing the staff and subject-matter experts to produce impact statements for the legislative team. Ms. Shue recognized Mr. Chuck Thompson, who recently started as a new Department attorney in December and who put forth great efforts during the session as a legislative team member.

Ms. Shue stated that the Legal Services section would provide a written legislative update to the Department administrators. There are about ten pages of Act summaries, which include subjects such as occupational licensure, automatic licensure for the military, abortion facilities, and other general legislation with which Department programs must comply. Ms. Shue informed the Board that any needed rules will be drafted this summer, and that programs have already started on that process.

Ms. Shue alerted the Board that there are new time constraints on the Board's rules promulgation process. Act 517 of 2019 requires all final rules to be filed with the Secretary of State by January of 2020. For efficiency, any proposed duplicative rule changes can be presented to the Board in a general "batched" process and the Board will be informed as to where the changes affect a specific program. The Board will review and approve most new rules at the August meeting, and any other remaining rules at the October meeting. Ms. Shue cautioned the Board that in order to complete the entire process by January 2020, which includes a public hearing and public notice, as well as the Legislative Public Health committees, Rules subcommittee, and the Legislative Council, the Board must expedite its promulgation.

Dr. Zini wanted to know if expediting the rules process would require meetings between the actual Board meetings. Ms. Shue responded that electronic copies of draft rules will be sent out to the Board for review as soon as possible. There will be constant electronic communication starting in July to try to ensure all questions are answered prior to the Board meeting. She advised that in the process of any electronic communication, all members should be mindful to stay in compliance with the Freedom of Information Act. Ms. Shue stated that instructions and information will be shared this summer.

Litigation Update

Ms. Shue reported that the abortion facilities cases have been moving forward this Spring. The Planned Parenthood and Little Rock Family Planning Services case against the Board of Health was filed in circuit court, and the Board was represented by the Attorney General's Office. Ms. Shue informed the Board that the Attorney General was successful in getting the case removed from circuit court to federal court. After that action was taken, the plaintiffs then non-suited, which meant that they will not pursue the case further in either state court or federal court. Ms. Shue further informed the Board that she talked with Mike Cantrell, who is the Assistant Attorney General on this case, and was informed by Mr. Cantrell that more motions will be filed seeking clarity on where the injunction stands since Judge Fox issued an injunction on enforcement of the payment delay. The order did not specifically address that part of the process.

Ms. Shue updated the Board on the federal court case of *Planned Parenthood vs. Smith*. A response was filed to the plaintiff's discovery in November and a meeting was held in January with the Attorney General's Office. Judge Moody signed an order dismissing the case without prejudice on April 8th due to the fact the plaintiffs no longer wished to pursue the case. Ms. Shue pointed out that there were at least nine or ten acts that were passed in the last legislative session that the plaintiffs may have felt that their resources would be better served filing lawsuits against the new legislation.

Ms. Shue next updated the Board on a state case involving fluoridation involving Ozark Mountain Regional Public Water Authority in Boone County Circuit Court, where Mr. Reginald Rogers attended the hearing held in Harrison, Arkansas on March 7th of this year. An order was entered

on March 11th, upholding the Department's actions on the fluoridation issue. Ozark filed a notice of appeal to the Arkansas Supreme Court and in April, moved to stay any enforcement proceedings.

Dr. Boss had questions about an article in the *Arkansas Democrat Gazette* that involved the abortion facilities. The article stated that the abortion facilities were dropping a lawsuit because the Department of Health has taken no action as to rescind or suspend their licenses. Dr. Boss expressed concern that one could think that the law can be broken and there be no consequences. Ms. Shue assured Dr. Boss that all the laws would continue to be enforced. Additionally, she assured the Board that all complaints received by ADH are investigated and taken very seriously. Dr. Smith added that the regulatory role of ADH is usually to bring a facility into compliance rather than to punish the facility. For example, if a violation is found that can be corrected immediately, it is allowed to be corrected immediately. If the violation persists, or cannot be corrected, then necessary action is taken.

Dr. Boss wanted to know whether or not the abortion facilities were charging \$200 dollars for an initial visit. It was her understanding that an injunction was in place allowing the abortion facilities to continue to charge that fee. Ms. Shue informed Dr. Boss that the Attorney General will be asking for clarification on the injunction, so that issue is pending at this time. Ms. Connie Melton added that it is her understanding that the facilities are no longer charging the \$200 dollars at the first visit. However, if needed, a quick investigation would not be a problem. Dr. Boss requested an investigation. Dr. Smith added that any complaint of noncompliance will always be immediately addressed.

Dr. Zini wanted confirmation that the decision regarding clarification on the injunction would be quick. Ms. Shue assured Dr. Zini that she is working with the Attorney General's Office and she will stay updated on the status of the litigation. Dr. Boss requested to be notified by email of any updates and Ms. Shue assured Dr. Boss that she would receive email notifications.

Dr. Yamauchi agreed with Dr. Boss that it appeared that ADH was taking no action in addressing the issue with the abortion facilities. There should have been a statement indicating that the situation was being monitored instead of giving the appearance that everything was resolved. Dr. Smith assured Dr. Yamauchi that ADH has a very good relationship with the media and tries to provide them with information that is accurate and understandable. Dr. Smith encouraged anyone to let it be known if there is ever any information from ADH that is not well received. Dr. Boss stated that she did make it known and was previously told she would be notified of any new information. However, she was not notified until today. Dr. Smith apologized for any delay.

Rules and Regulations Update

Ms. Shue reported that the Board's previously approved rules are continuing through the rule promulgation process. Rules regarding retail food establishments, onsite wastewater, and controlled substances are currently pending before the legislative public health committees. An emergency rule, approved pursuant to the Controlled Substances Act, included specific substances of concern to the state crime lab—two substances under schedule I, and five substances under schedule VI that are similar to synthetic marijuana. The emergency rule approval also ensures that the previously approved schedule V drug remains on the controlled substances list as the permanent promulgation process is pending. It was important that the current controlled substances list remain updated until the permanent rule process is complete.

Dr. Boss requested written information on the controlled substances acts, specifically the class V drug and the two that have been changed to class I. Dr. Boss stated she was on the Pharmacy Association Board, which is very interested in that information.

Dr. Boss also requested clarification on the new law already passed regarding rule promulgation by January 2020. Dr. Boss stated the last copy of rules she saw on abortion facilities was in 2014, and wanted to know if that was accurate. Ms. Shue explained that some portions of the rules have been enjoined by three federal lawsuits. She stated the 2017 updates were properly promulgated, but some portions of those rules were also enjoined. So, for accuracy, the Legal section is waiting on the decision regarding clarity with one injunction and also making sure that rules created in 2017 are currently filed with the Secretary of State.

Dr. Boss wanted to know if the rules need to be listed if they are enjoined, or if they are enjoined, do they just automatically not get listed in the rules and regulations. Ms. Shue explained that it is her understanding that they are posted on the Department website as rules under the Final Rule tab, but that some rules may still be listed under the Proposed Rules tab. She went on to explain that the Secretary of State is the official repository for filing rules, so all final rules are posted on the Secretary of State's website. Dr. Boss requested an updated version of the rules status. Ms. Shue stated there will soon be clarification of what is or is not enjoined, and all of the Board will receive the information. Dr. Boss reiterated that she would like the status of each law listed in the process.

Dr. Zini suggested that Ms. Shue and the Legal team work with Dr. Boss after the meeting in an effort to satisfy Dr. Boss's specific requests.

***Inspection Follow-Up
(Regarding Concerned Citizen, Ms. Avis Scott)***

Mr. Tom Jones reported that on January 30, 2019, he, along with Mr. Jerry Johnson and Mr. Dwayne Marriott, made an inspection of the Avis Scott residence in Conway, Arkansas. Mr. Jones stated that the plumbing in the apartment met the State plumbing code. The heat and air system was checked and also met State code. A general consensus of the three inspectors concluded that Ms. Scott's apartment was in excellent condition and basically very well-kept on a daily basis.

Dr. Zini reminded the Board that Ms. Scott was the lady who attended the last Board meeting with concerns about the condition of her residence. Dr. Zini thanked all who met with Ms. Scott to address the issues with her apartment. Dr. Smith asked if any mold was found at the resident as Ms. Scott had specifically mentioned the mold at the last meeting. Mr. Jones stated no mold was found even after checking the air ducts and the plumbing. Mr. Jones reiterated that the apartment was in excellent condition. Mr. Jones was asked if Ms. Scott was present doing the inspection and Mr. Jones stated that she was present.

NEW BUSINESS

NAACCR Cancer Data Submission

Ms. Kristyn Vang presented two studies for the Board's approval. She stated that the studies have been reviewed and approved by the Science Advisory Committee, the Board of Health Subcommittee, and the Executive Committee. The two studies to be conducted are Suicide Among Cancer Patients and Colorectal Cancer among Adolescents and Young Adults in North America.

Ms. Vang shared that at the subcommittee meeting Ms. Catherine Tapp had a question regarding suppression counts and how much data is provided. Ms. Vang stated she reached out to her contacts for an answer to that question and was informed that only one data set was being used. If there are not at least six cases, it will be suppressed automatically so there is no chance of identifying an individual. Ms. Tapp expressed that she was satisfied with Ms. Vang's answer and thanked her for her research.

The vote to conduct the two studies passed unanimously. No second was needed.

Utilization Review Waivers

Ms. Becky Bennett, who is the section chief for Health Facility Services for the Department, recommended the approval of waiver requests for two medical providers, Summit and AR Total Care. Ms. Bennett explained that Health Facility Services oversees the Utilization Review program for the Department and that the program is a system for reviewing the appropriate and efficient allocation of possible resources and medical services for a patient or group of patients. More specifically, utilization review refers to a preservice determination of the medical necessity or appropriateness of services to be rendered in a hospital on either an inpatient or outpatient basis when such determination results in approval or denial of payment for the services.

Ms. Bennett stated that Ark. Code Ann. § 20-9-903 requires certification of Utilization Review agents, and Health Facility Services drafts the rules for Utilization Review in Arkansas, which was promulgated for the certification requirement. Section 8 of the Rules allows the Director to waive the requirements of these Rules for a private review agent who operates solely under the contract with the federal government for utilization review. Arkansas Medicaid has entered into such a contract with two entities identified as Provider-Led Arkansas Shared Savings Entity (PASSE) and these entities must meet Medicaid managed care requirements and are overseen by the Arkansas Department of Human Services.

Ms. Bennett further reported that Health Facility Services conducted a comparison of the Arkansas Department of Health rules for Utilization Review and the regulatory requirements identified by the Department of Human Services for the PASSE program and found both to be compatible. Both PASSE providers, Summit and AR Total Care, have met the requirements to be granted waivers by the Board. Thus, the Health Facility Services Utilization Review program recommends the approval for the waiver request for Summit and AR Total Care.

Dr. Perry Amerine requested clarity of Ark. Code Ann. § 20-9-903 regarding the role of primary review agents. He explained that he was aware, on the federal level, there are provisions in place for no discrimination of providers and no discrimination of reimbursements as long as the care is provided under the defined state law. On the state level, there is the “any willing provider” provision, meaning if anyone is licensed to provide service, especially with state funds and Medicaid, participation in that program is allowed without discrimination of reimbursement or discrimination of class of provider providing the care. Dr. Amerine expressed that he believes PASSE is a good program. However, he needed to know if Summit and AR Total Care are under a managed care program that is not subject to previous federal and state guidelines that prevent discrimination of reimbursements and classes of providers.

Ms. Bennett expressed regret that a PASSE representative from DHS was not present to answer Dr. Amerine’s questions since PASSE is mainly DHS’s program. She stated she read through the requirements of PASSE and the Medicaid rules and discovered the rules are very similar to the ones in Health Facility Services Utilization Review.

Dr. Amerine clarified that he had no issue with quality of care. He was just concerned about the programs not being in compliance with the present federal and state guidelines that offer protection for providers against discrimination. Dr. Amerine made it known that he would gladly support the programs if there is a proviso that each entity submits a letter of assurance to the Arkansas Department of Health stating the entity will be in compliance with the anti-discriminatory provisions as found in federal and state laws. Dr. Amerine suggested that the certificate be provided as long as there is assurance that all is on good legal ground and that there be no discrimination. Dr. Mike Riddell agreed with Dr. Amerine that there be assurance of no discrimination.

Dr. Zini concluded that Dr. Amerine was recommending a motion to amend the proposal to include Dr. Amerine’s concerns. Dr. Weinstein seconded. Dr. Riddell wanted to know if there were regulations already in place to cover Dr. Amerine’s concerns.

Dr. Smith explained that regulatory responsibilities were taken very seriously at ADH. However, ADH never wants to add unnecessary layers of regulations. When a sister agency like DHS is already regulating in a way that is as stringent then it seems redundant and not helpful to require review by two different agencies. Ms. Bennett added that DHS has a quality assurance of performance strategy included in their regulations, along with many others. The reason is because DHS regulates many government entities as opposed to the private insurance agencies regulated by Health Facility Services Utilization Review.

Dr. Amerine shared that, as an optometrist licensed in the State of Arkansas, board certified on the American Academy of Board of Optometry, he requested to be part of the PASSE program and was informed there were enough optometrists and his services would not be needed. Dr. Amerine stated that if this is taking place in rural Arkansas, there is an access issue, and he is already seeing these patients. Dr. Amerine shared that over the last month or two, it has been a problem as qualified people are denied because there is no need for their service. Dr. Amerine wanted to make it known he was only speaking for himself and not for others. However, his colleagues have commented that they are completely in the dark about this program. Dr. Amerine stated that, as a profession particularly, and as a practitioner individually, this does not seem to comply with those anti-discrimination provisions. He added that it is not unheard of in other states that providers are filtered out, excess services reduced, and expenses are controlled.

As a result, it is difficult to get needed care. Dr. Amerine expressed he was just trying to keep that from happening.

For clarification, Ms. Bennett asked if Dr. Amerine was suggesting discrimination against the enrollee or the provider. Dr. Amerine confirmed that it was discrimination of the provider. Dr. Amerine stated that the process cannot take place without a certificate. So there has to be clarification before he would want to vote in the affirmative. Limiting the opportunities of providers in any specialty area in medicine that might be considered high cost is his concern.

Dr. Amerine then stated he would accept the second to the motion. Dr. Smith thanked Dr. Amerine for his specific focus on the issue, and stated that the proposed letter Dr. Amerine included in his motion would be very helpful in the proposal.

Ms. Shue added that the PASSE rules previously were reviewed and approved and the rules currently in place state that they meet federal and state requirements. She offered to pass the information on to the Board in writing. Dr. Smith added that he believed that a clarification letter was reasonable and asked Ms. Bennett if there is any reason she thought it would not be reasonable. Ms. Bennett expressed that, in her opinion, the letter was reasonable. Dr. Zini reminded the Board that a precedent would be established if the letter is implemented.

Dr. Yamauchi commented that he believes safe guards are already built into the process. For instance, when an organization signs on, the organization would have previously given that assurance of providing whatever is required by law at that level.

Dr. Amerine read part of the statute, that in his understanding, applies to him: "The State Board of Health or someone...will determine those necessary number of providers to offer the service." This applies to his case specifically, meaning there were already enough providers. He expressed that in his opinion, this is not complying with the federal and state provisions.

Dr. Zini confirmed that a question has been called to amend the proposal to include a proviso for submission of a letter. The motion passed. Dr. Yamauchi and Mr. Fortenberry abstained.

Dr. Zini had a question about the original proposal as amended. He wanted to know, even if an entity gives assurance, what position will that put the Arkansas Department of Health in as far as being able to monitor compliance. Ms. Bennett stated that it is her understanding that when an entity is referred to the Department of Human Services (DHS), the authority of the Arkansas Department of Health is terminated. The monitoring will be through DHS. Ms. Bennett emphasized that this applies only to the two PASSE entities. The Arkansas Department of Health is still responsible for all other Utilization Review.

Dr. Susan Jones wanted to know if Empower had also asked for a waiver. Ms. Bennett stated Empower has not asked for a waiver.

Motion to accept the amended proposal by Dr. Zini; Dr. Yamauchi, Mr. Fortenberry, and Dr. Riddell abstained. Motion passed.

Drinking Water Operators Licensing Committee Nominee

Mr. Jeff Stone requested Board approval of Mr. Jeff Ford to serve on the Arkansas Drinking Water Advisory and Operator Licensing Committee. Mr. Ford is currently the manager for Kimzey Regional Water District in Malvern, Arkansas. Mr. Stone informed the Board that nominations were received from three professional organizations in the State and all three organizations nominated Mr. Ford.

Dr. Fortenberry moved to appoint Mr. Ford to the committee. Dr. Yamauchi seconded. Motion carried unanimously.

Arkansas Acute Stroke Task Force

Dr. Bala provided an annual update of the Acute Stroke Task Force. He reported that as of 2017, Arkansas is now ranked #7 in the nation for stroke deaths after previously being ranked #1. He also reported that 73 of 77 hospitals are now participating or joining the Arkansas Stroke Registry.

Dr. Bala informed the Board that ADH is working with hospitals to help them achieve state designation as an Arkansas Stroke Ready Hospital (ArSRH). To date, twenty-four (24) hospitals have received final designation as ArSRHs by ADH, after successfully completing the site visit.

Dr. Bala reported that the Task Force has developed a best practices toolkit to assist EMS agencies in providing optimal stroke care. This resource provides a variety of tools that support continuing education, performance improvement efforts and community education. Dr. Bala mentioned the usage of stroke bands, which allows for the linkage of pre-hospital and hospital data.

Dr. Bala shared with the Board that ADH has coordinated a multi-channel campaign called “Dial Don’t Drive” in an effort to help Arkansans know the signs of stroke/heart attack and act in time by dialing 911. Dr. Bala also mentioned efforts to increase provider education through webinars and classes.

Dr. Bala informed the Board that there are also several minority outreach activities through the Office of Minority Health and the Chronic Disease branch of ADH. For instance, Minority Barber and Beauty Health created a small clinic within the barbershops to screen people for high blood pressure and diabetes and provide counseling for tobacco cessation. In addition, ADH has also started a counsel program primarily training the barbers to be promoters of good health in their communities.

Dr. Boss asked for the meaning of a “stroke band.” Dr. Bala explained that a stroke band is similar to a wrist band. It has a bar code that connects the EMS data to the hospital data enabling patients to be tracked from the first medical contact. The stroke band has been used by the Arkansas Trauma System for several years and just recently by the Stroke program.

County Health Officer Appointments

Dr. Zohoori requested approval for the reappointment of two county health officers. Recommendations were for Dr. Scott Winston from Grant County and Dr. Larry Jennings from Searcy County.

Dr. Winston graduated from Ross University School of Medicine in New York. He is currently in private practice at The Winston Clinic in Sheridan, Arkansas.

Dr. Larry Jennings is a graduate of College of Osteopathic Medicine & Surgery in Des Moines, Iowa. He is currently the Medical Director at Boston Mountain Rural Health Center in Marshall, Arkansas.

Dr. Riddell moved to approve both doctors for reappointment. Dr. Smith seconded. The motion carried unanimously.

OTHER BUSINESS

Administrative Updates

1. Audit Report

Ms. Ann Purvis presented the audit report from FY2017. She stated there were only two findings. The first one dealt with a procurement issue involving a contract that had a \$15,000 limit, but went over that amount by over \$50,000 without a competitive bid. This happened because the limit of the contract was not correctly entered into the system, so the same vendor was continuously being used without competitive bidding and that is a violation of State procurement law. Ms. Purvis assured the Board that safety measures have now been placed into the system to prevent this problem in the future.

Ms. Purvis reported that the second finding was somewhat unusual. It involved a Vital Records clerk who was also a cashier in the Little Rock office. At this office, applications are completed in one area and payments are conducted in another area secured by cameras. It was discovered that the clerk took a picture of a customer's check and used the routing number and account number to pay personal bills on line. The customer returned and reported the incident to ADH, who in turn, contacted the Little Rock Police Department. ADH cooperated fully with the investigation and the employee was terminated. In an effort to prevent this from happening in the future, the cameras have been repositioned in the cashier area for closer monitoring. Also, ADH has reinforced its policy that cell phones cannot be present doing any business transaction.

2. Government Transformation

Ms. Purvis updated the Board on the recent transformation of government and the impact it will have on the Board and ADH overall. Previously, there were a total of forty-two (42) departments and agencies. That number has now been reduced to fifteen (15). Arkansas Department of Health remains as one of the departments. Ms. Purvis informed the Board that the Governor will make the decisions regarding all departments in May of this year.

The other boards and commissions that were previously reporting directly to the Governor will now fall under the newly created 15 departments. As a result, the Department of Health will receive 20 additional boards of commissions. Ms. Purvis added the Board of Health's statutory and regulatory authority will remain the same, as nothing has been taken away or added. All licensing boards received by ADH, mostly the medical licensing boards, will be placed under the umbrella of the new Department of Health. However, these boards will retain their autonomy. There will never be an issue of a medical license coming before the Board of Health.

Ms. Purvis pointed out that three other offices to fall under ADH will be the Minority Health Commission, the Tobacco Settlement Commission, and the Health Services Permit Agency. Ms. Purvis stated there will be an administrative kind of realignment of these types of health services in an effort to have a more unified communication strategy.

Ms. Purvis shared that she has been selected to be part of the Governor's transformation, transition team. She is one of fifteen (15) members selected to help with the changes of not only the Health Department, but all the state agencies, boards and commissions.

Dr. Weinstein wanted to know if the veterinarian licensing board was part of the grouping of the medical licensing boards. Ms. Purvis clarified that the veterinarian licensing board was not part of the grouping. Only the human medical licensing boards.

Dr. Amerine wanted to know if the Governor's decision to make these changes in Arkansas government was based on his findings that this type of formation is most effective for the people in another state, and if so, he wanted to know the name of the state.

Ms. Purvis stated the Governor has spoken publically about a similar transformation when he was at the federal level. In her opinion, he is using solutions like this because the Governor believes services can be delivered more efficiently to the public in this way. Ms. Purvis also pointed out that this transformation has been a two-year process and a lot of information has been provided. There should be no doubt that the Governor is the originator of this design.

Dr. Greg Bledsoe added that, in his opinion, the Governor is using general principles from the private sector with regard to companies and efficiency in an effort to make State agencies more effective for the public. The Governor is not necessarily using any particular style from any other state. He agreed with Ms. Purvis that at times when government starts to grow, a focal point is needed by people in government to get their problems solved. What the Governor is trying to do is change that by placing the focus on the public instead to get their problems solved. This could possibly be accomplished by streamlining the government.

Dr. Smith responded by stating there is a very wide variation as to how different states have organized health and health related governmental services.

3. Medical Marijuana

Ms. Purvis informed the Board that the Board has already promulgated all the rules needed and there have been no significant changes during the session. Ms. Purvis explained that the Department of Health would be responsible for the following: 1) issuing cards; 2) requiring a way to track 2 ½ ounces of useful marijuana every fourteen days from the dispensary; and 3) keeping a registry of labs that are credited at a national crediting body for the testing. ADH sets

the standard of testing by rule and the Department is ready to go. Currently, one lab is registered. ADH does not want to get into the business of regulating the labs, so steps were taken for assurance that the labs had to meet national standards. The Department of Finance and Administration (DFA) and Alcohol Beverage Control (ABC) have a large part of the regulatory functions of the dispensaries.

The State has some responsibility on labeling, which has been done through the Department's rule making process. In Arkansas, there has to be a physician certification. This is a mandatory form required by the Department of Health rules. The tracking is also done through this form. For example, sometimes there is written miscommunication between a patient and a physician. Any mistake can be tracked by the form, which has the physician's name, and DEA number on it. Patient and physician information can be verified through these forms.

Ms. Purvis stated that she was aware of a question as to whether this can be done if this is a federal violation. A state is required to have a regulatory function in order for the federal government's enforcement methods to not go toward those activities at the state level. That is why the medical marijuana must be purchased from a dispensary and be cultivated in a certain manner. The State has to have this fairly intricate regulatory process from start to finish.

Dr. Zini wanted to know in what form would the 2 ½ ounces of marijuana be in for monitoring. Ms. Purvis stated that the form of marijuana has not yet been determined. In her understanding that 2 ½ ounces of oil would certainly be a lot different than 2 ½ ounces of a plant product. She went on to say that is how the amendment was written and some of it does have flexibility. However, amendments can be adjusted at a later time if needed.

Dr. Zini wanted to know if patients are allowed to grow their own plants. Ms. Purvis assured him patients are not allowed to grow their own plants in Arkansas.

Dr. Smith commented that one challenge would be the possession of that 2 ½ ounces of marijuana by someone in their car. It may be difficult to know exactly where that marijuana came from. Dr. Zini stated he raised that question during the regulations process and it is his understanding that they can even share marijuana with other card holders. Ms. Purvis informed the Board that there is a procedure in place called the seed to sale tracking system, where the marijuana is tracked from cultivation, production, growing season, manufacturing, and dispensing. Part of that responsibility will reside with DFA and ABC. Dr. Smith reiterated that once the marijuana is dispensed it is very hard to track. Ms. Purvis agreed.

Dr. Bryant asked if 2 ½ ounces constituted a large quantity. Ms. Purvis responded by stating 2 ½ ounces is definitely a large quantity. Dr. Zini asked Ms. Purvis to provide the Board members with more information as it becomes more defined.

Dr. Riddell had questions regarding law enforcement. Ms. Purvis assured Dr. Riddell she will be addressing all such questions in her presentation in the summer. She informed him that ADH tracking system is connected to Arkansas Crime Information Center and even though the system cannot know what condition the patient has, it will still know if the patient has a valid card. There is also the requirement that the packaging of medical marijuana has to be in a child resistant container and be maintained in that container.

Dr. Zini needed clarity as to whether a physician's DEA number is needed. Ms. Purvis confirmed that the number is a requirement. Dr. Zini added that it is only to verify that the physician has a valid DEA number because the physician is only validating the patient's condition and not prescribing the marijuana. Dr. Smith added the physician can determine the length of time for the certification to receive the marijuana, which is up to twelve months.

Centers/Office Updates

Mr. Don Adams, Director of the Center for Local Public Health, reported that there are local health units in all 75 counties in Arkansas, with at least one full-time local health unit in each county. In some counties where local government provide additional facilities there are multiple local units. Mr. Adams informed the Board that two part-time local health units exist, along with the Joseph Bates Outreach Clinic in Springdale. There are also four WIC-only clinics that are supported by federal funds through the WIC Program. In total, there are 96 local health units in operation around the state.

Approximately 400,000 clinical visits are received each year through these local facilities. That amounts to about 150,000 immunizations, 150,000 WIC visits, 100,000 family planning visits, and 100,000 TB, maternity, and STD/HIV visits combined. In addition to these 400,000 visits, about 250,000 flu immunizations are also provided through efforts outside the health units such as school flu clinics.

The Center for Local Public Health licenses approximately 16,000 retail facilities around the State and conducts about 30,000 inspections per year in these 16,000 facilities. There are around 100 environmental health specialists working out of the local health facilities and these specialists conduct a large number of food inspections. Around 5,000 wastewater permits a year are issued and there are many activities associated with those permits such as plan review and construction inspections. There are about 2,000 licensed swim facilities that are regulated and inspected on a routine basis, such as hotel and apartment pools.

The Center for Local Public Health now has a software program that interfaces with the electronic health record scheduling system and serves as a tremendous aid in reminding non-confidential patients of their appointments. It is also helping patients to be more compliant with their appointments, thereby making them less likely to be overdue for provided services. The confidential patients are not participants in this system. Since early 2018, satisfaction surveys have been sent out to non-confidential patients via a text with a link to the survey. As of yet, 16,000 survey results have been returned.

The Center is in the process of offering late appointments or extended hours in the local health units. The goal is to offer one day per week to extend operation hours. This would allow for some appointments later in the afternoon, thereby making it more convenient and offering better customer service for the patients.

Dr. Zini needed clarity regarding the extended hours. Mr. Adams confirmed that the staff's schedules would move forward, so there would be no overtime involved.

Public Health Science/Program Updates

Dr. Zohoori first informed the Board that the annual educational session will be on August 1st.

Next, Dr. Zohoori reported that the Office of Performance Management Quality Improvement and Evaluation now have a new manager who has been with the Department for over a month. She is the Quality Improvement manager and she is in the process of putting together the necessary counsel to work on the trainings. The Performance Management unit has a new manager also and she too is very eager to be taking on the job and helping to develop the performance management system within the department.

The Performance Management System has purchased new software for the department. It is a cloud-based program that allows for drafting and monitoring progress. This software is also a tool for strategic planning. The present plan comes to an end this year and the goal is to have a new strategic plan in place using this software and the tools that come with it.

One of the exciting things about the new software is that it will allow all of the counties and local health units to also have their own specific objectives to keep track and develop with their community partners. There will be more to report as time progresses.

Director's Report

Dr. Smith reported that Senator Boozman visited the Department in February. He met with staff, visited the emergency operation center, visited the public health lab, and seemed to be impressed with the overall setup of the ADH operation. Dr. Smith stated it was a very good, productive visit.

Dr. Smith shared that in March he met with each member of our congressional delegation in Washington, D.C. and all meetings went well. He talked with them about the State's health priorities and strategic plan and also the role of ADH. Dr. Smith offered ADH as a service to them in terms of timely accurate health information from within our State. Dr. Smith also advocated for funding for State public health, encouraging them to continue funds so State programs can continue operation.

Dr. Smith informed the Board that on June 27th of this year, ADH is expecting a visit from CDC Director Robert Redfield. Mr. Redfield will be giving a presentation at Public Health Grand Rounds at ADH. There will be a small group meeting with Mr. Redfield at a HIV stakeholder's roundtable meeting, where Mr. Redfield can share some of his vision for HIV elimination and then hear from us, the stakeholders within our State. Dr. Smith hopes not only will that be a way of giving Mr. Redfield feedback from Arkansas, but also a way to jumpstart efforts toward HIV elimination in the State. After the roundtable meeting, Mr. Redfield will meet with the Governor. Lastly, he will give a talk at UAMS before going back to Atlanta. Dr. Smith shared that he knows Mr. Redfield personally, having worked with him for about three years during his stay in Kenya.

Dr. Smith commented on the Public Health Grand Rounds event in which a presentation was given by Dr. Susan Weinstein. Dr. Smith commended her on an outstanding job she did on her

opioid epidemic presentation and encouraged everyone to watch and learn from it. Ms. Shue was asked to send the link of the presentation to the Board.

Dr. Smith acknowledged the present vacancies on the Board. It is his understanding that the Governor will be announcing appointments soon and the Board will be informed as soon as that happens.

Finally, Dr. Smith stated that he was reminded by Dr. Zini that public Board meetings are now open for being televised at AETN. It could happen at any time so everyone should be on alert.

President's Report

Dr. Zini thanked everyone for their hard work. Dr. Zini then informed the Board that it was time to say goodbye to Mr. Fortenberry as a Board member. He thanked Mr. Fortenberry for his support of public health and his valuable input and leadership on the Board. He assured Mr. Fortenberry that he will be greatly missed.

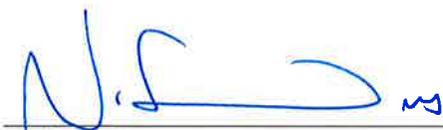
Mr. Reggie Rogers also thanked Mr. Fortenberry for all of his service, especially on the Administrative Hearings Committee. Mr. Fortenberry was always willing and available to appear when his engineering expertise was needed, particularly concerning public drinking water, which is so critical to the State of Arkansas.

Mr. Fortenberry stated it has been an honor to serve on the Board. Mr. Fortenberry expressed appreciation of the Board in recognizing the importance of clean drinking water and sanitation. In his opinion, Arkansas has always been ahead of other states in regulating water because of the Health Department and others like Jeff Stone and the people in the sanitation and environmental areas.

Mr. Fortenberry stated it has been a privilege serving on the Arkansas Board of Health for the past 20 years. He worked for Beaver Water District for 28 years. Mr. Fortenberry wished everyone the best.

Motion made to adjourn; seconded. Meeting adjourned.

The meeting was adjourned at 11:57 a.m.



Nathaniel Smith, M.D., MPH
Director and State Health Officer
April 25, 2019