

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

**October 26, 2017**

**MEMBERS PRESENT**

Terry Yamauchi, M.D., President  
Catherine Tapp, MPH, President-Elect  
Nathaniel Smith, M.D., MPH, Secretary  
Perry Amerine, O.D.  
Gary Bass, Pharm.D.  
Lawrence Braden, M.D.  
Glen "Eddie" Bryant, M.D.  
Miranda Childs-Bebee, D.D.S.  
Clark Fincher, M.D.  
Alan Fortenberry, P.E.  
Beverly Foster, D.C.  
Anthony Hui, M.D.  
Lee Johnson, M.D.  
Susan Jones, M.D. (via phone)  
Thomas Jones, R.S.  
P. J. Walker, MSN, CADC  
Susan Weinstein, DVM  
James Zini, D.O.

**MEMBERS NOT PRESENT**

Jim M. Lambert  
Greg Bledsoe, M.D.  
Robbie Knight-Thomas, Ph.D.

**GUESTS PRESENT**

Joe Bates, M.D., Senior Public Health Advisor  
Stephanie Williams, Deputy Dir. for Public  
Health Programs  
Glen Baker, M.D., Dir., Public Health Laboratory  
Robert Brech, General Counsel  
Reginald A. Rogers, Deputy General Counsel  
Vicki Pickering, Administrative Law Judge  
Connie Melton, Branch Chief, Health Systems  
Licensing & Regulation  
Kelli Kersey, Dir., Cosmetology Board  
Shirley Louie, Dir., Center for Public Health Prot.  
Renee Mallory, Center Dir. for Health Protection  
Mike Wilson, EOC, Technical Manager  
Steve Carter, Chief Financial Officer  
Xavier Heard, Dir., Human Resources  
Namvar Zahoori, M.D., Deputy Chief Science  
Officer  
Don Adams, Dir., Center of Local Public Health  
Xiaoyan Egbe, Epidemiologist – Cancer Registry  
Jo Thompson, Deputy Chief Financial Officer  
Michelle Smith, Dir., Office of Minority Health  
Denise Robertson, Registered Pharmacist  
James Joiner, Facility Engineer Supervisor  
Michael Knox, ACHI  
Gary Wheeler, M.D., Chief Medical Officer, CHP  
Infectious Disease  
Leanne Tucker, Grants Coordinator, ADH  
Jane Gaskill, Attorney, Health Facilities Services  
Becky Bennett, Section Chief, Health Facilities  
Haley Ortiz, Dir., Health Policy  
Marisha DiCarlo, Ph.D., Dir., Health  
Communications  
Christy Sellers, Dir., Center for Health  
Advancement  
Meg Mirvel, Public Information Specialist  
Services  
Andy Davis, Arkansas Democrat-Gazette  
Karley Altazan, Administrative, Legal  
Rachel Freeman, Extern, Legal



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

The quarterly meeting of the Arkansas State Board of Health was held Thursday, October 26, 2017, at the Marriott in downtown Little Rock, Arkansas. The meeting was called to order at approximately 10:00 a.m. with Dr. Susan Jones participating by teleconference.

### **APPROVAL OF MINUTES**

President Terry Yamauchi entertained a motion for approval of the August 3, 2017, Quarterly Meeting minutes. Motion to approve made by Dr. Susan Weinstein, seconded by Dr. Eddie Bryant. The minutes were approved as presented.

### **OLD BUSINESS**

There was no old business brought forward.

### **NEW BUSINESS**

#### **Approval for Minor Local Grant Trust Fund Grant**

Mr. James Joiner introduced a grant award for this cycle recommended by the subcommittee. The \$10,000 grant will go toward the Nevada County Health Unit for multiple renovations. The county will match that amount with a significant increase, well over the required 10%. Dr. Gary Bass and Dr. Peggy Walker were verified as members serving on the committee. Motion to approve by Dr. Bass and seconded by Dr. Bryant. Motion carried.

#### **Request for Approval to Release Data for NAACCR Cancer Studies**

Ms. Xiaoyan Egbe requested approval for data release of NAACCR Cancer Study. Dr. Yamauchi verified this is done yearly; therefore, there is no new statute or request in the release. Dr. Namvar Zahoori explained, while this is not a revision, requests come in regularly for the information collected in the cancer registry and go directly to NAACCR's central registry for the collection of data. When there is an active concern request, which is considered to be at the county level or lesser, the Board must approve that request. Passive requests are to be released automatically. Motion to accept by Dr. Weinstein; seconded by Ms. Catherine Tapp. Motion approved.

#### **Vital Record Forms**

Mr. Robert Brech provided an update on the vital record forms that will need to be revised. Act 519 went into effect August 1, 2017 which allows adoptees to access adoption records. Starting

from that date, biological parents have the option to have their names redacted from the records. If that occurs, the biological parents will have to complete a genetic and social history. State statute allows ADH to promulgate forms for this request by board approval. As of now, we are looking to other states for precedent to create these forms. Dr. Bryant inquired about the type of genetic history that will need to be provided. Mr. Brech indicated it will be a questionnaire of medical, family and social history rather than medical testing. Dr. Smith explained they are looking to other states with existing forms for guidance. Ohio, for example, has an eighteen (18) page document that could be revised to exclude unnecessary and confusing portions. We will continue to look at other states to provide a base form. Dr. Brad Schaffer, who specializes in pediatric genetics, will help us capture what is reasonable for the questionnaire.

As Mr. Brech explained, in Arkansas there is no notice requirement in place to alert biological parents of these changes. Thus, it is unclear as to how they will be notified of their respective options. Yamauchi questioned if there could be any legal ramifications from the adoptee or parents (biological or adoptive). Mr. Brech clarified that we are following state law and as a state agency we are protected by sovereign immunity. There was no action needed from the Board at this time.

#### **Amendment to Proposal to On-site Waste Water Rules**

Mr. Don Adams, Director for Center of Public Health, presented an additional revision to those approved at the April board meeting, as they were more technical in nature. The reason for the revision is to improve the Ethics Clause, which addresses the disclosure of conflicts of interest with licensees. Standard language follows engineering guidelines and the ethics codes identify the definition of a licensee. This will clarify disclosure of designers associated with particular distributors. Some are associated with the products of the treatment plants or are distributors of those products. If a designer specifies a product with which they are affiliated, they must disclose that information. Dr. Bryant inquired what particular type of properties would be affected, such as single dwellings, multiple units, subdivisions, etc. Mr. Adams explained the regulations would apply to smaller systems, but not typically single dwellings. There are some multiple dwellings and commercial properties; however, after a certain size, properties are out of jurisdiction. If it is a service discharge system, then it will be required.

Percolation test of soil analysis is considered outdated, and they have expanded their testing to soil methodology. The characteristics of the soil determine the type of system, location, size. Dr. Yamauchi requested more information regarding the affect to farms or if it was addressed in this request. Mr. Adams confirmed it does not address those wastewater operations. Motion made to approve by Dr. Bryant with Mr. Alan Fortenberry second, motion passed.

#### **Revisions to Rules and Regulations for Cosmetology in Arkansas**

Kelli Kersey, Director of Cosmetology Board, requested permission to proceed with administrative rule process for additional revisions since presenting at the last board meeting. In light of three (3) Acts passed, the rule revision needs further updates. The Acts addressed mobile salons, relocation of examination sites, and the requirement of a sexual harassment course. The

Act pertaining to mobile salons provided a clear definition of what is considered a mobile salon. They must be a specific size and on wheels. Additionally, regarding inspections of these facilities, they will be given a two (2) weeks' notice to provide their location in order to send an inspector. Dr. Susan Jones inquired about the number of mobile units operating in the state. However, that information was not readily available. Dr. James Zini suggested calling the mobile units, asking for a location, and sending an investigator at that time, rather than giving 2 weeks' notice. As Ms. Kersey pointed out, we only have 5 inspectors for the state so that limits our capabilities to investigate immediately. Dr. Bryant verified that these units are required to be licensed.

Another Act passed allows Cosmetology schools to administer the examinations. Dr. Yamauchi questioned Mr. Brech on the requirement of fees and standard costs. Mr. Brech stated there is not a consistent fee as each program supports itself. Some fees are set by statute, others by the Board. Ms. Kersey went further to explain they have reduced their fee from \$100 to \$50. Regarding the change in testing locations, the national exam which consists of practical and written portions, was held only in Little Rock each month. In order to test, the applicant must complete a certain amount of hours before they may sit for the exam. Reciprocal candidates must take the exam as well. The Act shifted exam administration to the schools due to only one location for testing. This will make it more accessible to those needing to test. Regarding cost, the schools have a cap on cost or do not have to charge. Dr. Zini expressed concern if the practical exam would meet the same criteria as the national exam. Ms. Kersey explained this will be a state test created based on the national exam. There are additional sections added to make it a more thorough examination. Dr. Bryant went further to suggest a committee or sub-committee to evaluate the quality as a standard. Ms. Connie Melton said they would be more than willing to work with the Cosmetology Technical Committee regarding the test. Clarification was received regarding inspections and how they would extend to the schools exam process, results and administering. Dr. Perry Amerine suggested a proctor monitor for the examinations. Ms. Kersey explained the schools will provide their exam schedule to provide assurance that we may inspect versus allowing them to self-monitor. Ms. Melton stated that while it is not possible to observe all exams given from the 70 schools, they will be monitored. Dr. Lee Johnson raised the question of training procedures for exam proctors and if any are in place. He suggested that perhaps they could have a uniform process for all schools. Ms. Kersey explained that each proctor must be a Cosmetology instructor, but no other training is received regarding the exam administration process. In further discussion, Dr. Amerine recommended a trial period by those overseeing the program and the board receive a report back regarding the process and standardization results. Dr. Smith confirmed there was no need for a vote to the request, but called for an update at the next Board of Health meeting. Motion to approve made by Dr. Zini, seconded by Dr. Bryant. Motion carried.

Dr. Amerine entertained a motion for the Cosmetology Board to report back to ADH, within one year, a comprehensive review of their testing process and standards being met to ensure all cosmetologists are licensed equally. Motion by Dr. Amerine, seconded by Dr. Zini. Motion approved.

## Rules and Regulations for Abortion Facilities in Arkansas

Ms. Becky Bennett provided a request to proceed to the administrative rule making process to update the Rules and Regulations for Abortion Facilities in Arkansas. During the 2015 90th Legislative Session, certain Acts pertaining to abortion regulations were passed. These included regulations on abortion drugs, amending laws for the disposition of human and fetal remains, and establishing abortion drug safety, parental involvement, as well as informed consent.

The committee approved to incorporate the rules, but the revisions were not prepared in time for approval during the 2017 91st Session. In that session additional Acts were approved, such as unborn protection from dismemberment, amending laws for denial, suspension or revocation of a license, born life protection, amending laws for disposition of fetal remains, and creation of sex discrimination by abortion prohibition. Incorporating these Acts will align the Rules and Regulations more closely to the standard of practice in ambulatory medical services under Section 10. Dr. Amerine requested clarification to Section 8 to the term “or means” regarding the procedures for abortions. Ms. Bennett explained this wording is directly from Act 1086 of 2015. Additionally in the same Section, Act 392 of 2017 provides the language for a born alive infant and identifies the complete or partial expulsion of the infant. Dr. Smith further explained there is a distinction between the two, dependent on the circumstances of the birth.

Dr. Amerine stated that, according to national reporting, when a child was partially exposed from the mother, some medical professionals declared the infant partially expelled and allowed the mother her right to terminate that life. Dr. Amerine requested a change in the language regarding the meaning of expulsion. Mr. Brech explained that it is rather difficult to meld all the Acts together and get them under the rule exactly the way the Legislature requests. There are number of Acts currently being challenged. It is necessary, however to continue with the draft for the administrative process. Dr. Smith indicated it is difficult to make those changes requested by Dr. Amerine due to the time frame. Additionally, if we try to make new changes it would be more difficult to allow the changes requested by the program to reflect the current statutes. This is a dynamic issue and likely to change. Judiciary actions are in effect regarding current Rules and Regulations. While Dr. Amerine requested the change be included in the draft, Mr. Brech expounded further that there are current limits on abortions regarding the age of the fetus, as well as a banning the dissection during extraction. Dr. Clark Fincher requested a moment to express his disapproval for the request. As he does not agree with the language in the Act, he communicated he cannot approve any additional revisions to the Rules and Regulations. He believes the Board provides the individual professionalism required for the necessary decision making. He suggests everyone vote with the knowledge presented, as well as with their conscience of what is best for Arkansans. Mr. Fortenberry motioned to approve request to continue to the administrative process; seconded by Dr. Susan Jones. Dr. Zini, Dr. Fincher, Dr. Bass, Dr. Beverly Foster, and Dr. Amerine did not approve request. The count resulted in 13 approved and 5 opposed, motion passed.

Dr. Yamauchi and Dr. Smith thanked the Board for its discussion and input on these topics. Dr. Smith expressed how difficult these issues can be and that he understands the Board does not view any of these decisions as a simple matter. He feels ultimately the Board of Health has done a lot to enrich our roles and the way we implement them and communicate to the state, which

include statues approved by the state government, that we may or may not agree. However, because of the sensitivity of some of the issues, it is important that we have a Board that understands the necessity of providing the best decisions for the public.

### **Other Business**

No items to report at this time.

### **President's Report**

Dr. Yamauchi thanked the Board for its continued participation and urged the members to attend the other committee meetings. He also reported the educational workshop for the next two days will provide much needed information.

### **Director's Report**

Dr. Smith announced ADH formed a new branch led by Haley Ortiz, on an interim basis, to address substance abuse and overdose. This will be discussed further during the educational workshop.

He also commended Shirley Louie on the improvements made within vital records. While there is more progress to be made, there are plans in motion to simplify the process.

Additionally, there was a recent site inspection by the CDC. The site reviewers were impressed with our unique relationship with the College of Public Health. There are monthly meeting with the two organizations to review areas for improvement. Dr. Dean Raczynski, Ph.D. is in the process of creating a blog to further explain the partnership between ADH and UAMS.

### **Additional Comments**

With regard to the appointment of new members that have expired, Mr. Brech clarified the positions need to be appointed by the Governor. The members will continue to serve until the new appointments are made.

Mr. Reginald Rogers announced there will be a short meeting with the Cancer Registry Committee regarding a request for review.

Ms. Stephanie Williams addressed the availability of flu shots provided before the educational seminar. She explained the Governor will be joining the luncheon and will make remarks.

There was no further business to come before the Board and the meeting was adjourned at the hour of 11:00 a.m. on Thursday, October 26, 2017.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'N. Smith', with a horizontal line underneath it.

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

January 25, 2017