

**MINUTES OF THE ARKANSAS STATE BOARD OF HEALTH
QUARTERLY MEETING
OCTOBER 26, 2023**

MEMBERS PRESENT

Mike Riddell, MD, President
Susan Weinstein, DVM, President-
Renee Mallory, RN, Secretary of Health
Kay Chandler, MD, Surgeon General
Perry Amerine, OD
Loy Bailey, RS
Eddie Bryant, MD
Dwayne Daniels, MD
Brad Erney, DMD
Phillip Gilmore, PhD
Donald Ragland
Blake Torres, PharmD
Clay Waliski
James Zini, DO
Darren Flamik, MD
Balan Nair, MD

MEMBERS EXCUSED

Mellie Bridewell
Lane Crider, PE
Melissa Faulkenberry, DC
Anthony Hui, MD

MEMBERS ABSENT

David Kiessling, DPM
Vanessa Falwell, APRN

GUESTS PRESENT

Dr. Jennifer Dillaha, ADH, Director and
Secretary of the Board of Health
Dr. Bala Simon, ADH, Deputy Chief Medical Officer
Don Adams, ADH, Chief of Staff
Cassie Cochran, ADH, Deputy Director for Public
Health Programs
Dr. Naveen Patil, ADH, Deputy State Health Officer
Dr. Namvar Zohoori, ADH, Deputy State Health Officer
Dr. Chychy Smith, ADH, Director, Health Disparities
Elimination
Dr. William Greenfield, ADH, Senior Physician Specialist
Dr. Mike Cima, ADH, State Epidemiologist
Dr. Rachel Sizemore, ADH, Office of Oral Health Director
Shane David, ADH, Health Systems Licensing Branch Chief
Connie Melton, ADH, Director, Center for Health Protection
Shirley Louie, ADH, Nuclear/Radiological and
Environmental Liaison Officer
Laura Shue, ADH, General Counsel
Reginald Rogers, ADH, Deputy General Counsel
Chuck Thompson, ADH, Managing Attorney
Brian Nichols, ADH, Attorney
S. Craig Smith, ADH, Attorney
Chuck Hardin, ADH, Attorney/Privacy Officer
Terry Paul, ADH, Environmental Health Branch Chief
Ashtyn Pike, ADH, Law Clerk
Shelly Matthews, ADH, Nurse Facilitator
Connie Melton, ADH, Director, Center for Health Protection
Jacob Smith, ADH, Substance Misuse and Injury
Prevention Branch Chief
Jamie Turpin, ADH, PDMP Administrator, CHP ADS
Bernard Bevill, ADH, Radiation Control Section Chief
Paula Day, ADH Health Facilities Services Section Chief
Dr. Katie Seely, ADH, Director of the Public Health Lab
Angela Minden, ADH, Health Physicist
Adelia Oldenbroek, ADH, Health Physicist Supervisor
Dr. Laura Rothfeldt, ADH, State Public Health Veterinarian
Jim Carter, ADH, Chief Information Officer
Jeremy Courtney, ADH, Director, Center for Public
Health Practice
Christy Kreese, ADH, EMS Section Chief
Meg Mirivel, ADH, Director, Communications
Haley Ortiz, ADH, Policy and Special Project Coordinator
Matt Gilmore, ADH, Boards and Commissions Coordinator
Jo Thompson, ADH, Chief Financial Officer

Dr. Hattie Scribner, PhD, ADH, Family Health Branch
Manager
Kristie Washington, ADH, Injury Prevention and Control
Section Chief
Krista Wells, ADH, Cosmetology and Body Art Inspector
Kelli Kersey, ADH, Section Chief for Cosmetology, Body Art,
and Massage Therapy
Mandy Thomas, ADH, CHP ADMO
Job Toussaint, ADH, Health Program Specialist
Patrick Judkins, ADH, Computer Support Analyst
Steven Speer, ADH, A/V Contractor
Mike Wilson, ADH, EOC Technical Manager
Nick Shull, Pharmacist/Investigator
Kerry Krell, OOH
Amanda White, EMS Supervisor
Lucy Im, Epidemiologist

The quarterly meeting of the Arkansas State Board of Health was held on Thursday, October 26, 2023, in the Main Conference Room, Room 906, Freeway Medical Tower, of the Arkansas Department of Health.

CALL TO ORDER

Dr. Mike Riddell, President, called the meeting to order and asked for a roll call which was conducted by General Counsel Laura Shue.

APPROVAL OF MINUTES

Donald Ragland moved, and Dr. James Zini seconded, that the Minutes of the July 27, 2023, Quarterly Meeting be approved. Motion carried by unanimous vote.

OLD BUSINESS

NO OLD BUSINESS.

NEW BUSINESS

MIDWIFE ADVISORY BOARD NOMINEES & 2020-2022 LLM DATA REPORT SUMMARY

Ms. Shelly Matthews, Nurse Program Facilitator of the Women's Health Program, presented a nomination for the Midwife Advisory Board, Ms. Christina M. Winton.

There was no discussion. Dr. James Zini moved, and Dr. Eddie Bryant seconded, to approve the nomination. Motion carried by unanimous vote.

Ms. Matthews also presented the 2020-2022 LLM Data Report Summary. No vote was required. Dr. Kay Chandler asked about the data concerning perinatal death from 2020 and the 12-week gestation period considering the CDC uses a 28-week scale. Ms. Matthews explained this measurement and its compliance with Arkansas law.

Dr. Mike Riddell asked about the chances of transfer to a hospital following labor and whether informed consent was required. Ms. Matthews stated that clients do sign a disclosure form that informs them of the risks prior to birth and possibility of transfer at any point during pregnancy and labor. There is not a requirement to have a witness, but it's signed by the client and midwife.

COMMITTEE OF PLUMBING EXAMINERS

Mr. Ric Mayhan, Director, Protective Health Codes, presented a nomination for the Committee of Plumbing Examiners, Mr. Kevin Haney, to serve as Consumer Representative.

At the conclusion of the nomination, Dr. James Zini moved, and Dr. Eddie Bryant seconded, to approve the nomination. Motion carried by unanimous vote.

COMMITTEE OF PLUMBING EXAMINERS

Mr. Ric Mayhan, Director, Protective Health Codes, presented a nomination for the Committee of Plumbing Examiners, Mr. Joseph Rouse, to serve as Journeyman Plumber Representative.

At the conclusion of the nomination, Dr. Susan Weinstein moved, and Dr. Brad Erney seconded, to approve the nomination. Motion carried by unanimous vote.

RULES PERTAINING TO THE STATE BOARD OF SANITARIANS

Mr. Terry Paul, Environmental Health Branch Chief, presented proposed amendments to the existing rules to comply with Acts 137 and 457 of the 2023 legislative session regarding military licensure and automatic licensure for out-of-state licensees.

Dr. Loy Bailey asked about the acceptance of credentials from another state and whether that person would be recognized as a sanitarian in Arkansas if they have experience, education, etc. and if that's true, is that person recognized automatically. Craig Smith, attorney for ADH, explained that Act 457 was passed by the legislature in the 2023 session which permits those licensed in another state to be licensed in Arkansas once they establish residency, so long as they can show that they've been practicing for 1 year, or 3 years if there isn't a licensure for that occupation, and understand Arkansas laws. There is no reciprocal agreement required to accept another state's occupational license.

Charles Thompson, attorney for ADH, also explained that the state cannot require a licensee from another state to do additional education or other preliminary requirements.

At the conclusion of the discussion, Dr. Blake Torres moved, and Dr. James Zini seconded, to approve the proposed amendments. Motion carried by unanimous vote.

RULES PERTAINING TO SEPTIC TANK CLEANERS

Mr. Terry Paul, Environmental Health Branch Chief, presented proposed amendments to the existing rules for Septic Tank Cleaners to comply with Acts 137 and 457 of the 2023 legislative session regarding military licensure and automatic licensure for out-of-state licensees.

Dr. James Zini moved, and Loy Bailey seconded, to approve the proposed amendments. Motion carried by unanimous vote.

RULES PERTAINING TO WATER OPERATOR LICENSING

Mr. Terry Paul, Environmental Health Branch Chief, presented proposed amendments to the existing rules for Water Operator Licensing to comply with Acts 137 and 457 of the 2023 legislative session regarding military licensure and automatic licensure for out-of-state licensees.

Dr. Susan Weinstein moved, and Dr. Phillip Gilmore seconded, to approve the proposed amendments. Motion carried by unanimous vote.

COSMETOLOGY TECHNICAL ADVISORY COMMITTEE (CTAC)

Kelli Kersey, Section Chief for Cosmetology, Body Art, and Massage Therapy, presented two (2) nominations for the CTAC, Mr. Joseph Dillahunty and Ms. Morgan Gamble.

At the conclusion of the presentation, Dr. James Zini moved, and Dr. Eddie Bryant seconded, to approve the nominations. Motion carried by unanimous vote.

RULES PERTAINING TO RULES FOR MASSAGE THERAPY

Kelli Kersey, Section Chief for Cosmetology, Body Art, and Massage Therapy, presented implemented rules related to massage therapy. The amendments to the rules are to comply with changes pursuant to Acts 45, 137, and 167 (master massage therapy training) and to reorganize certain provisions within the rules. The changes permit the Department of Health to do background checks *before* students begin massage therapy school, allowing the process, after graduation, to be smoother.

Dr. Mike Riddell asked about the hour requirements for each level of the three levels of massage therapy. Ms. Kersey explained that 500 hours of education are required for a licensed massage therapist; and 300 additional hours of practice and continuing education are required for a master massage therapist. Dr. Riddell also asked how many licensed massage therapists the state has; Mrs. Kersey responded that there are approximately 2,100.

Dr. Zini then asked why a massage therapist would want to become a master massage therapist. Ms. Kersey explained that it is a better title and shows that they're experienced and able to teach at a school.

Dr. Riddell also asked about what massage services are available for practitioners to advocate. Ms. Kersey explained that she was not a licensed massage therapist; however, there are courses for various medical ailments that can be aided with massage. Charles Thomson, attorney with ADH, explained that massage has a technical advisory committee that regularly reviews the rules and is working to better join the massage field with the medical field, such as with educational opportunities.

Dr. Bryant also asked whether education for licensees is in person or online; Ms. Kersey responded that the classes are in person.

Dr. Kay Chandler asked for clarification about the scope of practice for a master massage therapist. Ms. Kersey clarified that the difference is that master therapists may teach courses.

At the conclusion of the discussion, Dr. James Zini moved, and Dr. Susan Weinstein seconded, to approve the proposed amendments. Motion carried by unanimous vote.

REVISIONS TO THE HEALTH FACILITIES RULES FOR HOSPITALS AND RELATED INSTITUTIONS IN ARKANSAS

Ms. Paula Day, Section Chief for Health Facility Services, presented the proposed amendments to the rules pertaining to Health Facilities Rules for Hospitals and Related Institutions. The proposed changes provide an added provision for Pharmacy Continuity of Care Endorsement, pursuant to Act 233. The proposed rules now also require posting of a written notice that attacking a healthcare professional is a felony under Act 313, and to require hospitals to comply with federal hospital pricing transparent regulations under Act 482. The rules also require hospitals to comply with the abortion right-to-know-and-see-act under Act 559, and the rules amend the no patient left alone act regarding clergy members under Act 716. Finally, the proposed changes amend the patient right to know regarding licensure of a healthcare provider pursuant to Act 830.

Dr. Eddie Bryant asked for clarification about whether persons must be patients in order to receive drugs from hospital pharmacies; Ms. Day said that was correct.

Dr. Kay Chandler asked about the patient right to know regarding licensure of healthcare provider and whether “healthcare provider” refers to individual practitioners or entities. Ms. Day clarified that the act and changes are referencing entities and that their statements cannot be misleading. Healthcare providers refers to hospitals, clinics, agencies, etc.

After discussion, Dr. Phillip Gilmore moved, and Dr. James Zini seconded, to approve the proposed amendments. The motion carried by unanimous vote.

REVISIONS TO THE HEALTH FACILITIES RULES FOR CRITICAL ACCESS HOSPITALS IN ARKANSAS

Ms. Paula Day, Section Chief for Health Facility Services, presented the proposed amendments to the rules pertaining to Health Facilities Rules for Critical Access Hospitals in Arkansas. The proposed changes provide an added provision for Pharmacy Continuity of Care Endorsement, pursuant to Act 233. The proposed rules now also require posting of a written notice that attacking a healthcare professional is a felony under Act 313, and to require hospitals to comply with federal hospital pricing transparent regulations under Act 482. The rules also require hospitals to comply with the abortion right-to-know-and-see-act under Act 559, and the rules amend the no patient left alone act regarding clergy members under Act 716. Finally, the proposed changes amend the patient right to know regarding licensure of a healthcare provider pursuant to Act 830.

After discussion, Donald Ragland moved, and Dr. Phillip Gilmore seconded, to approve the proposed amendments. The motion carried by unanimous vote.

HEALTH FACILITIES RULES FOR HOME HEALTH AGENCIES IN ARKANSAS

Ms. Paula Day, Section Chief for Health Facility Services, presented the proposed amendments to the rules pertaining to Health Facilities Rules for Home Health Agencies in Arkansas. The proposed changes amend the aide training requirements to include Alzheimer's Disease and Dementia pursuant to Act 70. The proposed rules now also require posting of a written notice that attacking a healthcare professional is a felony under Act 313 and amends the no patient left alone act regarding clergy members under Act 716. Finally, the proposed changes amend the patient right to know regarding licensure of a healthcare provider pursuant to Act 830.

There was no discussion. Dr. Eddie Bryant moved, and Dr. Susan Weinstein seconded, to approve the proposed amendments. The motion carried by unanimous vote.

HEALTH FACILITIES RULES FOR HOSPICE AGENCIES IN ARKANSAS

Ms. Paula Day, Section Chief for Health Facility Services, presented the proposed amendments to the rules pertaining to Health Facilities Rules for Hospice Agencies in Arkansas. The proposed changes amend the aide training requirements to include Alzheimer's Disease and Dementia pursuant to Act 70. The proposed rules now also require posting of a written notice that attacking a healthcare professional is a felony under Act 313, and amends the no patient left alone act regarding clergy members under Act 716. Finally, the proposed changes amend the patient right to know regarding licensure of a healthcare provider pursuant to Act 830.

Mr. Donald Ragland moved, and Dr. James Zini seconded, to approve the proposed amendments. The motion carried by unanimous vote.

HEALTH FACILITIES RULES FOR PRIVATE CARE AGENCIES IN ARKANSAS

Ms. Paula Day, Section Chief for Health Facility Services, presented the proposed amendments to the rules pertaining to Health Facilities Rules for Private Care Agencies in Arkansas. The proposed changes amend the aide training requirements to include Alzheimer's Disease and Dementia pursuant to Act 70. The proposed rules now also require posting of a written notice that attacking a healthcare professional is a felony under Act 313, and amends the no patient left alone act regarding clergy members under Act 716. Finally, the proposed changes amend the patient right to know regarding licensure of a healthcare provider pursuant to Act 830.

Dr. Blake Torres moved, and Dr. James Zini seconded, to approve the proposed amendments. The motion carried by unanimous vote.

RULES FOR FREE STANDING BIRTHING CENTERS IN ARKANSAS

Ms. Paula Day, Section Chief for Health Facility Services, presented the proposed amendments to the rules pertaining to Free Standing Birthing Centers in Arkansas. The proposed

amendments require posting of a written notice that attacking a healthcare professional is a felony under Act 313, and amends the patient right to know regarding licensure of a healthcare provider pursuant to Act 830. The proposed amendments also include changes to comply with Act 848, to clarify the performance of an abortion to save the life or a pregnant woman in a medical emergency may be performed only in a hospital or emergency room.

Dr. Susan Weinstein asked how many free-standing birthing centers we have in the state; Ms. Day said that we have none.

At the conclusion of the discussion, Dr. Phillip Gilmore moved, and Dr. James Zini seconded, to approve the proposed amendments. The motion carried by unanimous vote.

REVISION TO RULES PERTAINING TO RABIES CONTROL

Dr. Laura Rothfeldt, State Public Health Veterinarian, presented the proposed amendments to the rules pertaining to rabies control. The proposed changes reflect amendments made to the Rabies Control Act during the 2023 legislative session in accordance with Acts 161 and 522, allowing persons in addition to veterinarians to administer rabies vaccines and allowing for home quarantines of a vaccinated dogs and cats. The vaccine list at the end of the rules was also removed.

Dr. Susan Weinstein expressed concern regarding the vaccine certificate requirements under Section III, especially as drive thru clinics become more common and records of vaccines become electronic. Dr. Rothfeldt expressed that she understood and would take those into consideration. Dr. Weinstein recommended additional changes, including clarification of Section V(A)(10) and of Section VI(D)(1)(a) (shipping the whole animal rather than just the head or brain). Clarification will also be made to Section VIII, and “can” will be changed to “should” in Section X(B).

Dr. Weinstein recommended that, in the future, the board member representing the section make the changes available in advance of the meeting so that changes can be recommended and made prior to presenting the rule changes to the Board for a vote.

Dr. Blake Torres asked where information can be found when citizens need guidance in response to a rabies bite. Dr. Rothfeldt explained that several resources can be found on the ADH website. Dr. Mike Riddell asked about what measures can be taken with animals running loose in the rural areas and neighborhoods and whether, or how, those animals are screened for rabies. Dr. Rothfeldt explained that animal control will tell owners that they have the right to protect themselves and their property. This is an increasing issue.

Dr. Loy Bailey asked whether an animal, with rabies, can be mandated to be under veterinarian supervision following a bite or whether at home quarantine is all that’s required. Dr. Rothfeldt explained that it is up to the jurisdiction; some jurisdictions don’t have the availability, but ADH works with law enforcement to the best of its ability. Law enforcement is not always compliant with rabies rules nor are all law enforcement personnel aware of the rules.

Dr. Torres also asked whether local health units administer or have access to rabies vaccines; Dr. Rothfeldt said they do not, however; she is trying to get the word out on having this changed.

Due to requested changes, the proposed rules will be presented again, for a vote at the Board's next meeting in January of 2024.

STANDARDS PERTAINING TO HUMAN BREAST MILK BANKS

Ms. Cristy Sellers, Director of Health Advancement, presented the proposed amendments to the Standards Pertaining to Human Breast Milk Banks in Arkansas. The proposed amendments are recommended to comply with Act 216 of 2019 to establish the Standards pertaining to Human Breast Milk Banks as well as Act 225 of 2021 regarding appropriate safety standards in the transporting, processing and distributing of commercial human breast milk to protect Arkansans.

At the conclusion of the discussion, Dr. Perry Amerine moved, and Dr. James Zini seconded, to approve the proposed amendments. The motion carried by unanimous vote.

RULES PERTAINING TO DENTAL HYGIENISTS SERVING UNDERSERVED AREAS

Dr. Rachel Sizemore, Director of Office of Oral Health, presented the proposed amendments to the rules pertaining to Dental Hygienists Serving Underserved Areas. The proposed amendments are aimed at removing barriers to using Dental Hygiene Collaborative Care permits in public settings, specifically public schools, and allow the use of a broad range of oral and public health data to assess a community's need priority in relation to the provider's service area. The proposed rule changes also protect and preserve any provider/patient relationships by eliminating a rule that required yearly patient assessment by the DHCC provider.

Dr. Perry Amerine expressed his gratitude for this year's Board and the method in which Dr. Riddell runs the meetings. He also expressed acknowledgement of ADH's efforts to improve health in the state. He also commended Dr. Sizemore for her exceptional presentation and the work she has done on this matter to improve dental health in Arkansas. Ms. Renee Mallory thanked Dr. Amerine for his recognition. Dr. Mike Riddell stated that he appreciated Dr. Amerine's comments and expressed his respect for Dr. Amerine. He also mentioned HPV vaccinations and the necessity for dentists.

Dr. Brad Erney also thanked Dr. Sizemore for her, and her colleagues, hard work.

At the conclusion of the discussion, Dr. Perry Amerine moved, and Dr. Brad Erney seconded, to approve the proposed amendments. The motion carried by unanimous vote.

AMENDMENTS TO THE LIST OF CONTROLLED SUBSTANCES, FINAL APPROVAL

Shane David, PharmD, Pharmacy Services Section Chief, outlined various amendments to the list of controlled substances from the Spring 2023 changes. These changes were presented for final approval. The initial amendments were approved by the Board of Health on January 26,

2023, and further changes were made to comply with Act 629 of the 2023 legislative session. The Arkansas Legislative Council approved them on August 25, 2023.

Dr. James Zini moved, and Dr. Eddie Bryant seconded, to approve the proposed amendments. Motion carried by unanimous vote.

AMENDMENTS TO THE LIST OF CONTROLLED SUBSTANCES, INITIAL APPROVAL

Shane David, PharmD, Pharmacy Services Section Chief, outlined various amendments to the list of controlled substances, as presented for initial approval. Changes were made to comply with Act 629 of the 2023 legislative session, with notation regarding current litigation involving the Act.

Dr. Eddie Byrant asked why it is necessary to list each individual isomer. Dr. David explained that the molecule structure may differ thus each is needed to be named in relation to the analogs on the list.

Dr. Blake Torres moved, and Dr. James Zini seconded, to approve the proposed amendments. Motion carried by unanimous vote.

COUNTY HEALTH OFFICER REAPPOINTMENTS

Dr. Namvar Zohoori, ADH Deputy State Health Officer, presented three (3) reappointments for County Health Officers, Dr. Felicia Watkins-Brown for Ashley county; Dr. Sarah Woodruff for Johnson county; and Dr. Shawn Bogle for Marion county.

Dr. James Zini moved, and Mr. Phillip Gilmore seconded, to approve the nominations. Motion carried by unanimous vote.

EMS HEARING PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERS ON LINDSEY GORTNEY, AMANDA WILSON, AND ERIC PAPP

Mr. Craig Smith, ADH Attorney, presented the matter of Omar Pena-Romero. Mr. Romero was not personally present nor online. Mr. Smith stated that Mr. Romero was given notice of the meeting by mail and email. Mr. Romero is an EMT who was arrested in August of 2023; he was charged with rape, aggravated assault of a family or household member, and interference with emergency communication. Following a hearing on August 30, 2023, the subcommittee recommended that his EMT license be suspended until such time the pending charges against him are fully adjudicated.

Dr. Brad Erney moved, and Dr. Eddie Bryant seconded, to accept the recommendation as written. Motion carried by unanimous vote.

The next matter presented was Ms. Natalie Hodges, who was not personally present nor online. Mr. Smith stated that Ms. Hodges was given notice by email and mail regarding the meeting. Ms. Hodges is a licensed paramedic and, in July of 2023, she was reported by MEMS for suspicion of narcotic diversion. The findings of fact concluded that the narcotics diverted were Fentanyl and Versed. Prior to being reported, Licensee was asked to perform a drug screening

while on duty and she refused. Her employment was terminated on June 28, 2023, for refusing to submit to a drug screening, falsifying documentation, and failure to follow protocol. The subcommittee made the recommendation to revoke the Licensee's paramedic license, allowing her to work as an EMT for a minimum of two (2) years before she's able to reapply to become a paramedic. Suspension of Ms. Hodges' paramedic license continued until this board meeting, allowing her to work as an EMT pending presentation of the subcommittee's recommendations.

Dr. James Zini moved, and Donald Ragland seconded, that the recommendation be accepted as written. Motion carried by unanimous vote.

OTHER BUSINESS

Guest Speaker, Arkansas Attorney General Tim Griffin, spoke about how his office oversees the disbursement of one-third of Arkansas's opioid settlement funds and how it handles requests for funds and makes decisions regarding disbursement.

PRESIDENT'S REPORT

Dr. Mike Riddell informed board members to reach out if interested in serving as President in the following years. He also suggested having someone, in future meetings, present information, that works outside of ADH and the Board of Health. All suggestions should be forwarded to Laura Shue, General Counsel for ADH.

Dr. Riddell held a moment of silence for the passing of Dr. Joseph H. Bates, the public health physician, ADH Senior Advisor, and educator at the College of Public Health who transformed tuberculosis treatments.

ADH Attorney, Reginald Rogers, then spoke on the passing of George Harper on September 1, 2023. Harper served as General Counsel and Deputy Director at the Department of Health for many years.

SECRETARY'S REPORT

Secretary Renee Mallory passed over her report in lieu of time but did express her thoughts following the passing of Dr. Bates and George Harper.

The meeting adjourned at 12:47 pm. Dr. Eddie Bryant moved, and Dr. James Zini seconded.



Dr. Mike Riddell, President
Arkansas State Board of Health