

DELAWARE AUTHORITY ON RADIATION PROTECTION
SUMMARY OF MEETING
September 9, 2013
Harry Levin Center for Pharmacy History & Education
27 North Main Street
Smyrna, Delaware

Members Present: (those with checks only)

R. Arm	√	F. Fisher-Tyler	√	K. Musto	√
F. Esposito	√	W. Holden	√	K. Neelans	√
L. Fox	√	I. Turner	√	D. Smith	
E. De Whitt	√	T. May		D. Tilton	√
J. Dill	√	N. Melikechi		R. Wier, Jr.	√

Guests:

R. Brinsfield	√	L. Terry-Graham	√	N. Henry	√
R. Mims	√	K. Shaughnessy	√	J. Solge	√
F. Mourtada	√	D. Shutak	√		

F. Esposito, Authority Chair, brought the meeting to order at 5:10 pm.

I. Agenda Adopted

R. Wier introduced a motion to accept the agenda as amended by F. Esposito, moving the regulatory review up as the first order of business. K. Neelan seconded and all voted to approve. The motion passed.

II. Chairman's Comments

F. Esposito thanked the members of the Authority for their continued service and contributions to radiation protection for all Delawareans. She asked all individuals present to introduce themselves, since there were guests present for the regulatory review session. She indicated that her meetings with the leadership of the Division of Public Health and the Department of Health & Social Services (DPH/DHSS) have continued, and the Authority initiative to procure additional resources for ORC has continued to progress. She also asked the members to review the Authority's draft Annual Report to Governor Markell, and provide any comments by September 31.

III. Regulatory Review

F. Esposito acknowledged and thanked the members of the Regulations Task Force for their time and effort to date, and for the work ahead. She specifically thanked the members – W. Holden, L. Fox, R. Arm, K. Neelans, J. Dill, R. Mims and F. Fisher-Tyler for their contributions toward completion of the first milestone in the regulatory review. She reported that the Phase 1 regulations (4465 Parts C, G, F, K, X) were published as

final rule on June 1, 2013, with effective date of June 11, 2013. She indicated that she was pleased with this Authority response to the Governor's Executive Order 36, in expediting review of the Delaware Radiation Control regulations, last amended in 2002. She asked F. Fisher-Tyler to facilitate the Phase 2 review, on behalf of the task force.

F. Fisher-Tyler provided an overview of the regulatory review process, briefly describing the three chapters currently under review and reporting that the proposed pre-decisional drafts discussed during this meeting had been prepared by the Regulations Task Force, a committee of the Authority which included several appointed members, the Office of Radiation Control and the Deputy Attorney General who serves as Counsel to the board. She reported that after this discussion, comments will be collected and those comments and suggestions would be used by the Regulations Task Force to inform the proposed rule, which will be reviewed by the Authority at their November 18 meeting. If the Authority votes to approve the proposed regulations, they would be forwarded on to DPH/DHSS (the Agency) for consideration of publication as proposed rule for public comment.

Admin Code No.	Chapter	Title
4465	Part A	General Provisions
4465	Part B	Registration of Radiation Source Facilities and Service Providers
4466	n/a	Radiation Technologist/Technician Certification Regulations

F. Fisher-Tyler facilitated the group discussion of each set of the following regulations.

4465 Part A – General Provisions

A number of changes and additions were identified in the definitions section, including providing specific definitions for the regulated practice community, with specific citation of appropriate Delaware Code for each professional board. The task force was asked to ensure that citations to federal or state statute are specific to section referenced, and with caveat “as amended”. The task force was asked to ensure that all definitions referring to the Standard Internationale (SI or metric) units be more explicitly defined, and that terminology referring to “exposure” be revisited to ensure consistency with other chapters of the regulations, such as Part F (Use of Diagnostic Imaging Systems in the Healing Arts). The task force was asked to consider including the definitions of Radiation Technologist and Radiation Technician to Part A. The task force was asked to review terminology for consistency with US Nuclear Regulatory Commission (NRC) regulations, such as “member of the public, controlled area and restricted area.” The task force was asked to address definitions which may be legacy artifacts and which may no longer be referenced in other parts of the regulation, such as “Pyrophoric material.”

4465 Part B – Registration of Radiation Source Facilities and Services

It was generally agreed that any definitions revised for 4465 Part A be cut and pasted into 4465 Part B, to the extent that they are repeated in Part B, for consistency. The

task force was asked to articulate Section 1.0 Purpose and Scope to specify three areas: registration of radiation machine facilities, radioactive material facilities and radiation service providers (vendors). The task force was asked to address the two-step process for opening a new radiation machine facility, with respect to submittal of radiation shielding plan to the Office of Engineering to receive an "Approval to Construct" letter, and then scheduling a pre-operational inspection with the Office of Radiation Control to receive an "Approval to Operate" certificate. The task force was asked to assure that applicants for use of an "out-of-state source" for temporary use submit their application, and receive Agency approval prior to furnishing or offering to furnish any services. The addition of a section describing Radiation Safety Officer (RSO) responsibilities for x-ray machine facilities, and education & training requirements for persons performing radiation machine assembly, installation or repair were discussed, and general agreement was expressed for adding these new appendices.

4466 Radiation Technologist/Technician Certification Regulations

A number of changes and additions were identified in the definitions section, including providing specific definitions for the regulated practice community, with specific citation of appropriate Delaware Code for each professional board, as was done for 4465 Part A. Proposed fees for initial application, timely renewal and late renewal of certification were discussed. The task force was asked to keep the fee schedule as simple as possible, with initial application at \$ 50, timely renewal at \$ 50 (prior to expiration date of current certificate) and late renewal at \$ 100 (with timeliness determined based on postmark, 1 – 180 days after expiration date). The group also discussed applicants who self-disclose a felony, with respect to their requirement to submit court documents that include charges, and disposition papers. Such cases have been, and will continue to be addressed by the Authority on a case-by-case basis. The task force was asked to include a brief statement about the procedural process triggering the returned check fee, and consequence for certificate already issued to the applicant when the check is returned. R. Wier and R. Mims agreed to review Section 9.0 - the Appeals, Enforcements and Penalties section, and provide comments to the task force with proposed language changes to modernize the text, where appropriate.

IV. Minutes

R. Arm introduced a motion to approve the April 29, 2013 meeting minutes, J. Dill seconded and all voted to approve. The motion passed.

V. Old Business

F. Esposito reported that the Authority had been successful in obtaining approval for ORC to receive three blocked fleet vehicles dedicated to radiation facility inspections, and that ORC staff members have received approval to attend out-of-state training where there are opportunities for hands-on, practical learning opportunities on various x-ray modalities. ORC expressed appreciation, reporting that such resources and opportunities will contribute significantly to office productivity.

VI. Informational Updates

F. Fisher-Tyler summarized the Radiation Control Activity Report, asking in the interest of time that comments be sent to her via email. R. Arm commented that he was pleased to see the additional detail in the monitoring reports. R. Brinsfield and K. Shaughnessy were commended for preparing such well-written reports.

On behalf of Public Education Committee Chair D. Smith, who was out of town, F. Fisher-Tyler reported that the committee had held periodic teleconferences during the summer, and that D. Smith has made a number of edits to the Authority webpage. She reported that the committee has another teleconference scheduled in October, and will have a more formal report at the November 18 meeting. She suggested that the members access the Authority webpage to view progress to date:

www.deradiationprotection.org

VII. New Business

F. Esposito asked that those members whose appointments expired in 2013 or which are scheduled to expire in 2013, complete and submit a boards & commissions application form available on the Governor's webpage. She indicated that this is now a requirement for re-appointment, as the application contains items which must be attested to prior to the re-appointment being approved. She also reported that the members representing DHSS Secretary Landgraf (T. May), and DNREC Secretary O'Mara (E. DeWhitt) are now also appointed by the Governor.

VII Public Comments

There were no public comments submitted.

VIII. Adjournment

R. Arm introduced a motion to adjourn, L. Fox seconded and all voted to approve. The Authority meeting was adjourned at 9:55 pm. The next meeting of the Authority is scheduled for November 18, 2013 at 6 pm, at the Harry Levin Center for Pharmacy in Smyrna.

Respectfully submitted,

Kelly Shaughnessy,
Recording Secretary,
Authority on Radiation Protection
Office of Radiation Control