

**DELAWARE AUTHORITY ON RADIATION PROTECTION**  
**SUMMARY OF MEETING**  
September 10, 2012  
Harry Levin Center for Pharmacy History & Education  
27 North Main Street  
Smyrna, Delaware

Members Present: (those with checks only)

R. Arm	√	F. Fisher-Tyler	√	C. Milazzo	
F. Esposito	√	W. Holden		K. Musto	√
L. Fox	√	C. Krikelis		K. Neelans	√
E. De Whitt	√	T. May		D. Smith	√
J. Dill	√	N. Melikechi		D. Tilton	

Guests:

R. Brinsfield	√	L. Terry-Graham	√	N. Henry	√
R. Mims	√	K. Shaughnessy	√		

F. Mourtada    √    J. Solge    √    W. Fendt

Authority Chair F. Esposito called the meeting to order at 5:45 pm.

**I.    AGENDA ADOPTED**

R. Arm moved to approve the agenda, K. Neelan seconded, and all members voted in favor of accepting. The motion was approved.

**II.    MINUTES**

R. Arm moved to approve minutes of the April 2, 2012 meeting, E. De Whitt seconded, and all members voted in favor of accepting. The motion was approved.

**III.    CHAIRMAN'S COMMENTS**

Chair F. Esposito thanked the members of the Authority for their continued service and contributions to radiation protection for all Delawareans. She remarked that it was a full agenda, and in the interest of time, we would move ahead with the discussions.

**IV.    Pre-Decisional Regulatory Review**

F. Fisher-Tyler provided an introduction to the pre-decisional regulatory review process. She stated that the objective of the process is to gather stakeholder feedback on the core content of the chapters under review, update selected regulations to address developments in medical technology, and changes in regulatory oversight for

radioactive materials, and to make technical corrections, as needed. She reviewed the source documents, which included the existing Delaware Radiation Control Regulations, and the Conference of Radiation Control Program Directors (CRCPD) Suggested State Regulations (CRCPD). She indicated that the Authority will review stakeholder comments, and use those comments to inform development of the proposed rulemaking. She stated that the Authority will vote to approve a draft regulation, then the proposed rule will be published for public comment by the Agency. The final regulation will be published by the Registrar of Regulations on the state webpage. Following are highlights of comments discussed for each draft regulation:

#### Part C/4482 Licensing of Radioactive Material

Replace Section 1.0 Purpose and Scope of the existing regulation, revise the section to reference Part B, which requires registration of all radioactive material facilities and delete all remaining sections of the regulation, to reflect transition of primary licensing and enforcement authority for radioactive materials from state of Delaware to the Nuclear Regulatory Commission in 2007.

#### Part F/4485 Use of Diagnostic X-Rays in the Healing Arts

Rename the regulation "Use of Diagnostic X-Rays and Imaging Systems in the Healing Arts." Maintain Section 1.0 Purpose and Scope in the existing regulation. Delete remainder of sections in the existing regulation, and replace them with Suggested State Regulations, Part F, "Use of Diagnostic X-Rays and Imaging Systems in the Healing Arts," published by the Conference of Radiation Control Program Directors (CRCPD) in 2009. Retain "Qualified Expert" definition from the current regulation, in the proposed amendment. Review citations relevant to use of portable or mobile equipment to exclude use of hand-held devices. Develop introductory statement to Appendix B to emphasize that use of hand-held devices requires application for variance approval by the Authority, citing the requirement to address the specific sections of the regulation that prohibit hand-held devices. Review section of current regulation that allows owners of diagnostic x-ray system to modify the system without submitting reports of such modifications. Review section of current regulation that speaks to operator qualifications as "licensed practitioner" to address questions regarding physicians assistants and radiologist assistants.

#### Section G/4486 Use of Radionuclides in the Healing Arts

Replace Section 1.0 Purpose and Scope of the existing regulation, revise the section to reference Part B, which requires registration of all radioactive materials and delete all remaining sections of the regulation, due to transition of primary licensing and enforcement authority for radioactive materials to the Nuclear Regulatory Commission in 2007.

#### Section K/4490 Compliance Procedures

Modify Section 5.0 Inspections to at least every two years for medical facilities utilizing angiography, radiography, fluoroscopy, computed tomography (CT), mammography, stereotactic breast biopsy and radiation therapy modalities, and at least every four years for other registered facilities, such as bone densitometry, dental, podiatry, veterinary,

academic and industrial modalities. Review text to assure that languages allows for inspections or investigations of non-registered facilities, and assure that the regulation does not exceed authority established in the enabling legislation in Section 9.0 and 10.0. Insert fee schedule established by the Authority by legislation in 2008 into Section 7.0. Review language describing variances with respect to appeal timeframe. Upon resolution of all items under review or revision in the body of Part K, revise Appendix A to specify citations for severity level 1 and level 2 violations of the regulations.

#### Part X/4492 Therapeutic Radiation Machines

Maintain Section 1.0 Purpose and Scope in the existing regulation. Delete remainder of sections in the existing regulation, and replace them with Suggested State Regulations, Part X, "Therapeutic Radiation Machines," published by the Conference of Radiation Control Program Directors (CRCPD) in 2009. Retain "Qualified Expert" definition from the current regulation, in the proposed amendment. Review American Board of Radiology board certification specialties in Section 3.0 to assure accuracy. In Section 7.0, remove language no longer applicable to current beam monitoring information displayed at control panel in event of power failure, review use of terminology re: kV vs. kVP and evaluate IGRT, IMRT or VMAT procedures for consideration in the context of this section. Evaluate Section 12.0 for review by the registered facility's Institutional Review Board, for experimental modalities not currently regulated under any existing category of therapeutic radiation machine.

### **V. Discussion Items for Authority Vote:**

#### Nominees for vacant public member post

F. Fisher-Tyler reported for Nomination Task Force Chair W. Holden, who was not able to attend. Resumes were reviewed for four nominees to fill a vacant public member post on the Authority. It was confirmed that the Authority currently possesses two appointed members per county, as required by the enabling legislation, 16 Delaware Code, Chapter 74, Radiation Control. The four individuals discussed included Diane M. Andrews, Marcy B. Jack, Bryan E. Keenan, and Richard R. Wier, Jr. D. Smith introduced a motion for the Authority to recommend Marcy B. Jack for the post, R. Arm seconded. All voted to approve.

#### Rad Tech Application with Felony Conviction

Certification Chair L. Fox provided an overview of this case, with background information as follows. The Authority on Radiation Protection established regulations entitled "Certification of Radiation Technologists and Technicians" in 1989, and amended those regulations most recently in February of 2006. The regulation specifies qualification criteria, as well as offenses which might be grounds for disciplinary actions for a certified technologist or technician, or which could be the basis to refuse an application for certification. Offenses that are specified in the regulations include "has been convicted of a felony". Also provided was information on felonies used for pre-employment background checks by the Department of Health and Social Services

(DHSS) Long-Term Care Facilities, for hiring employees to work in personal and health care environments, with specified time frame of five or ten years as criteria (years since arrest).

Precedents for cases approved by the Authority in the past were described. In May 2010, and April 2012, Rad Tech Certification applicants who disclosed felony convictions within the last ten years on their applications were granted certificates.

In July 2012, an applicant for Dental Radiation Technician who passed the state dental radiation technology exam disclosed a 2007 felony conviction for theft of a controlled substance. The individual satisfied all of the court's requirements and the case was closed in 2010. The individual submitted a letter expressing her remorse for the immature behavior she exhibited as a teenager resulting in this conviction, and her intent to remain a productive member of society. L. Fox introduced a motion to approve the application for certification, R. Arm seconded. All voted to approve.

#### Annual Report to the Governor

Authority Chair F. Esposito gave an overview of a draft Annual Report to the Governor, on activities of the Authority on Radiation Protection in Fiscal Year 2012. She indicated that the Authority Strategic Plan requires that such a report be issued every year and asked for discussion. There was no discussion; R. Arm introduced a motion to approve the report, D. Smith seconded. All voted to approve.

#### **VI. PUBLIC COMMENTS**

There were no public comments submitted.

#### **VII. ADJOURNMENT**

The Authority on Radiation Protection was adjourned at 8:50 pm. The next scheduled meeting is Monday, December 3, 2012 at 6 pm at the Harry Levin Center for Pharmacy History & Education in Smyrna, DE.

Respectfully submitted,

Frieda Fisher-Tyler, Administrator, Office of Radiation Control  
Administrator, Office of Radiation Control  
Delaware Division of Public Health