

**DELAWARE AUTHORITY ON RADIATION PROTECTION**  
**SUMMARY OF MEETING**  
December 3, 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	√	K. Musto	√
F. Esposito	√	W. Holden	√	K. Neelans	√
L. Fox	√	C. Krikelis		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			

W. Fendt      √

F. Esposito, Authority Chair, brought the meeting to order at 6:10 pm.

**I. AGENDA ADOPTED**

E. DeWhitt 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 September 10, 2012 meeting, J. Dill seconded, and all members voted in favor of accepting. The motion was approved.

**III. CHAIRMAN'S COMMENTS**

Authority 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, so we would move ahead. She also welcomed Mr. Richard Wier, Jr., the newly appointed member to the Authority, and initiated introductions from all present, for his benefit. Mr. Wier stated that he was pleased to be joining the Authority.

#### IV. Informational Updates

##### Certification Committee

L. Fox, Committee Chair, reported that the committee held a teleconference on November 29 to discuss several items including: a notice to the Delaware State Dental Society describing upcoming changes to the Delaware Dental Radiologic Technology (DDRT) exam application process, minor changes to the American Registry of Radiology (ARRT) Limited Scope Exam format and committee intent to begin comprehensive review of the Radiation Technologist/Technician Certification Regulations (DE Administrative Code No. 4466) in 2013. She reported that there are substantive issues to be discussed, including the definition of a “licensed practitioner” and emerging issues associated with scope of practice. She suggested that the Authority make this set of regulations a top priority for 2013. She also reported that the notice to the Dental Society had been reviewed by the full committee, and would be transmitted immediately to the Dental Society by R. Arm, Vice Chair and Dental Society representative on the Authority.

**Action Item:** Initiate comprehensive review of the Radiation Technologist/Technician Certification Regulations in 2013, L. Fox, F. Fisher-Tyler

**Action Item:** Distribute List of Committees to the Authority, F. Fisher-Tyler

##### Nominating Committee

W. Holden, Committee Chair, reported that with the appointment of Richard Wier, Jr. all Authority positions had been filled. He stated that he regretted to inform the Authority membership however, that Charles Milazzo, the appointed member in the Industry, Non-Medical position had recently indicated his intent to resign his appointment for multiple reasons. W. Holden indicated that the committee would follow up on this matter to determine next steps.

**Action Item:** Confirm status for Mr. C. Milazzo and initiate search for new nominees for Industry, Non-Medical position on the Authority, W. Holden

##### Legislative Liaison Task Force

F. Fisher-Tyler indicated that K. Musto, Task Force Chair had nothing to report.

##### Public Education/Webpage Task Force

D. Smith, Task Force Chair reported that he just received notice on the day of this meeting that a volunteer student webmaster had been identified by Dr. Melikechi at Delaware State University and that the task force will begin its work after the New Year.

##### Draft Authority Accomplishments 2012

F. Fisher-Tyler distributed a handout with draft Authority Accomplishments for 2012, and requested that comments be emailed to her. She reported that the revised Accomplishments will be presented for Authority review and vote at the February 2013 meeting. She also distributed a handout summarizing activities of the Office of Radiation Control, and requested that any questions or comments on that summary be emailed to her, as well.

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

F. Fisher-Tyler provided an introduction to the regulatory review process. She stated that the Authority will vote to approve a draft regulation and then the proposed rule will be published for public comment by the Agency. A question was asked whether public hearings would be held, and T. May indicated that the Division of Public Health practice is to accept written comments by mail rather than hold a hearing. He stated that the Division will address the public comments, and forward the final version for approval. The final regulation will be published by the Registrar of Regulations on the state webpage. He indicated that in terms of process timelines, it may be possible for these regulations to be published on Feb 1, 2012 with a 30 day public comment period and agency review of comments in March. T. May also described Executive Order 36 issued by Governor Markell in 2012, ordering that regulations last amended over 3 years ago be reviewed in an expedited manner. He indicated that many regulations in the Division will be reviewed in 2013, as a result.

The following draft regulations were reviewed:

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

F. Fisher-Tyler led the review of Part C/4482. Highlights included: 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, as a result of the federal Energy Policy Act of 2005.

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

F. Esposito led the review of Part F/4485. Highlights included: 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 in the healing arts requires application for variance approval by the Authority, citing the requirement to speak to 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.

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

L. Fox led the review of Part G/4486. Highlights included: 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 as a result of the federal Energy Policy Act of 2005. Refer regulatory oversight for use of radionuclides in the healing arts to the Code of Federal Regulations, Nuclear Regulatory Commission.

#### Section K/4490 Compliance Procedures

F. Fisher-Tyler led the review of Part K/4490. Highlights included: 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 language 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. Address language regarding appeal timeframe and exemptions by the Agency, and the Authority in Sections 8.0 and 9.0. Insert fee schedule established by the Authority by legislation in 2008 into Section 7.0. Upon resolution of all items under review or revision in the chapters of the radiation control regulations currently in review, revise Appendix A to specify citations for severity level 1 and level 2 violations of the regulations.

**Action Item:** Address questions about Section 8 & 9– Exemptions Requests to the Agency and the Authority, F. Fisher-Tyler and Deputy Attorney General R. Mims.

#### Part X/4492 Therapeutic Radiation Machines

W. Holden led the review of Part X/4492. Highlights included: 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 Delaware 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.

#### **VI. Discussion Item for Authority Vote: Radiation Technician Applications with Felony Convictions**

F. Fisher-Tyler introduced these cases, 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, which specified time frame of five or ten years as criteria (years since arrest). Deputy Attorney R. Mims provided additional background information on each case, as available. Following is an overview of the discussion, and deliberation by the Authority:

In August 2012, a new application for Delaware Radiography Certificate for Dental Technician licensure was received with disclosure of felony conviction within last ten years. On September 19, documentation related to the felony was received, along with a letter expressing regret for her actions, stating that she paid back restitution, completed her community service and wrote a letter of forgiveness. She also stated that she has kept a stable job, earned some college credits and moved to Philadelphia where she attended school for Dental Assisting and passed the Dental Assisting National Board (DANB) RHS certification exam. She stated that she has requested a pardon from North Carolina for her case that dates to 2004. The Authority discussed this application and determined that the documentation is not definitive in specifying final resolution of her case. F. Esposito introduced a motion for the Authority to grant conditional approval of her application, with the provision that the applicant provide acceptable documentation reflecting that she completed her sentence and her case was closed. D. Smith seconded the motion, and all members voted in favor of accepting. The motion carried.

In November 2012, for the first time, a renewal application was received from a current Delaware certificate holder disclosing felony conviction within the last ten years. The applicant was issued a Dental Radiation Technician Certificate on January 12, 2009, which is due for renewal on January 12, 2013. Her certificate was issued based on passing the Delaware Dental Radiologic Technology (DDRT) exam approved by the Authority, and administered by the Dental Assisting National Board (DANB) under contract to DPH. Until we received the renewal application, there had been no complaints nor sanction actions taken for her certificate. The applicant wrote a letter acknowledging contrition for her actions that resulted in her March 2010 felony, stating that she has worked as a Dental Assistant for a Dentist in Dover, has been employed with him since June 2010, and has been given raises and was recognized for good performance. She also stated that she has learned from her past mistakes, has matured, become a responsible adult and requests that the Authority approve her license renewal so she can continue her productive employment in dental assisting. The documentation submitted contains full resolution of her case (all requirements completed, fees paid and case closed). R. Wier introduced a motion to approve the license renewal application, R. Arm seconded and all voted in favor of accepting. The

motion passed. R. Wier requested that the language related to felony convictions on the ORC application forms be reviewed when the regulation is amended in 2013.

Action Item: Radiation Technologist/Technician application forms will be reviewed as part of the regulatory review in 2013, F. Fisher-Tyler

**VII. Election of Officers**

F. Fisher-Tyler opened the floor for nomination of individuals for Chairperson. W. Holden introduced a motion to nominate current Authority Chair F. Esposito, R. Arm seconded and all voted in favor of accepting. The motion carried.

F. Fisher-Tyler opened the floor for nomination of individuals for Vice-Chairperson. L. Fox introduced a motion to nominate current Authority Vice-Chair R. Arm, N. Melikechi seconded and all voted in favor of accepting. The motion carried.

**VIII Public Comments**

There were no public comments submitted.

**IX. ADJOURNMENT**

R. Arm introduced a motion to adjourn, N. Melikechi seconded and all voted to accept. The meeting was adjourned at 8:50 pm. Meetings are scheduled in 2013 on Mondays at 6 pm at the Harry Levin Center for Pharmacy History & Education in Smyrna, DE, as follows:

February 25  
April 8  
September 9  
November 18

Respectfully submitted,

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