

RADIATION ADVISORY COMMITTEE MEETING
Minutes
February 11, 2009

Call to Order

Dr. Gary Gates, chair, called a meeting of the Radiation Advisory Committee (RAC) to order into Executive Session on February 11, 2009, 10:31 a.m, in Conference Room 1E of the Portland State Office Building.

Members Present:

Brown, Paul
Elting, Donald
Franco, Janet
Gates, M.D., Gary

McNeill, Randy
Reese, PhD, Steven
Riggs, Edgar

Members Absent:

Barnett, D.M.D., Douglas

State Members Present:

Carpenter, Todd
Grater, Connie
Howe, David
Lindsey, Terry

Lut, Margaret
O'Fallon, J.D., Shannon
Wilson, Phil

The Executive Session adjourned at 11:40 a.m.

Public Session

Dr. Gates called the Radiation Advisory Committee into Public Session at 11:53 a.m. He asked if there were any additions to the agenda. There were none.

He then asked public members to hold comments until the Comment Section of the agenda.

RPS Budget

Terry Lindsey reported on Radiation Protections Services 2007 – 2009 budget. He stated radioactive materials licensing program was put behind in this last biennium due to the TOPOFF 4 exercise in October 2007. Despite that, the RML inspections are getting back on track. Also, inspections in the X-ray program are gaining progress, although we have two vacant inspector positions. The tanning program

is catching up on inspections also. Debt collection is a major issue in the tanning program. All of the inspectors are members of the ERT program. This takes part of their time with training.

Review of Program Compliance/Case Reviews

David Howe gave a summary of the case review and civil penalties proposed procedure. Based on history of chronic nonpaying licensees and inspection violations, RPS has had a difficult time having them come into compliance. There has been a working group formed within the section to create a process for enforcing correction of noncompliance issues. David distributed a list of delinquent tanning licensees (by internal licensee number for confidentiality reasons). They have all been referred to the Department of Revenue for collection. The list also included the number of citations for each facility issued for noncompliance during their inspection.

David presented the past and current plan for noncompliance issues, including nonpayment of annual fees. In the past the licensees with unpaid fees were processed through small claims court. Currently, the unpaid fees are submitted to the Department of Revenue for collection.

David then presented a proposed civil penalty process for tanning inspection noncompliance issues.

- Verbal warning or issuing a citation for noncompliance issued by inspector at site with a fine imposed. They have 30 days to respond.
 - If they correct the noncompliance and based on the severity of the noncompliance they may not get fined
 - If the facility wants to oppose the fine, they will be entitled to a hearing through the Attorney General office
 - They could have their business closed or license suspended

Recommendations Concerning Civil Penalties

Todd Carpenter distributed a proposed revision to Oregon Administrative Rules, Division 119, that will address penalties for nonpayment of registration fees. Part of the proposal includes scheduling of penalties for noncompliance of tanning facilities based on a severity score. It includes a settlement agreement for facilities that correct noncompliance issues and continue to comply with the rules.

Currently, when an inspector cites a facility for noncompliance, the facility

receives a report on the noncompliance issues during the exit interview. They are then charged with responding to correction of the issues within 30 days. The proposal for noncompliance issues is based on a severity score with fines imposed.

RAC Case Reviews and Enforcement Recommendations

David Howe stated he had previously addressed the RAC as a reference for case reviews. The enforcement issue is currently with the agency and the proposal would be to bring noncompliant licensee issues to the committee for their advice on penalties.

Review of Final Version of Approved Bylaws/Minutes

Minutes from the June 11, 2008 and October 8, 2008 meetings were sent to the members for their review.

Motion

Janet Franco moved, Don Elting seconded the motion and it was approved unanimously to accept the minutes of the June 11, 2008 and October 8, 2008 RAC meetings as written.

Bylaws were revised with corrections from the last meeting and sent out to the members.

Motion

Don Elting moved, Paul Brown seconded the motion and it was approved unanimously to accept the bylaws as presented.

Disposal of Sources (SCATR and Other Options)

Terry Lindsey stated an agreement with the CRCPD to dispose of sources has not been finalized. All of the items to be disposed of have been identified. Bonny Wright and Todd Carpenter have drafted a letter to be sent to licensees for any other sources that need to be disposed of.

Review of Licensing and Inspection Procedures

Terry Lindsey stated that we are making progress on writing draft protocols for inspections, etc.

Public Comments Session

Robert Snee, Esquire, representing Anytime Fitness, presented how Anytime Fitness allows members to tan “after hours” entering the facility with their security card. Usually one or two staff are trained as an operator, they then train members to be an operator. The member operators can then tan “after hours” with no one in attendance. He stated the security card only allows them to tan once in 24 hours. (The facilities all have security cameras.)

After his presentation, Terry Lindsey asked Mr. Snee to give Todd Carpenter a copy of the training information that the clients are asked to use. The issue will not be finalized at this time, but will be discussed at a later date.

Environmental Public Health Update/Legislative Update

Terry Lindsey reported that at this time the three major legislative issues that Radiation Protection Services is involved in are:

- HB 2245 which changes the name of the Oregon Board of Radiological Technology to Board of Medical Imaging. They will extend their role to include all imaging modalities.
- SB 20 –Radon Standards for New Construction – this is in certain counties where radon levels are higher than others. It will require all new family homes and residences constructed to be tested.
- HB 2350 – relating to depleted uranium

NEW BUSINESS/SUBCOMMITTEE REPORTS

Todd Carpenter distributed a packet of draft Oregon Administrative Rules.

Administrative Rules/Subcommittee Reports

NSTS

Todd noted the draft OARS included amendments to:

- 333-120-0015(54) to address the NSTS definition
- 333-120-0800(8) Reports of Transactions Involving Nationally Tracked Sources

Dental X-ray Machines.

Margaret Lut reported on the permanent phase out of dental units with a fixed, nominal kilovolt of less than 55. This addition to the rules will be in OAR 333-100-0020(7) and be effective July 1, 2011.

After discussion, the committee approved an addition of this rule that should read, "existing diagnostic dental X-ray systems less than 55 kvp, shall not to be used on minors."

Margaret reported that the rest of the proposed dental X-ray rule amendments in Division 106 have to do with definitions. She reviewed the additions with the committee.

Terry Lindsey stated that a subcommittee needs to be created and charged with developing rules in Division 106 regarding dental and ENT operations. Interested parties are Margaret Lut and Steve Crawford (Oregon RPS), Dr. Paul Brown (RAC), Dr. Douglas Barnett (RAC), Donna Stevens (OHSU) and Kimberly Earp (Adventist Medical Center).

Video Fluoroscopy in Chiropractic applications

Margaret Lut reported that during an inspection a mobile C arm X-ray machine was found to be in use. This is an emerging technology for chiropractors and, although the chiropractic board has developed guidelines for its use, Oregon RPS was not consulted for input.

NRC Web-based Licensing

Todd Carpenter reported that 4-6 months ago we received a survey from NRC about what databases we use to track sources. We have not heard the results of that survey, but we do know that the NRC is going to implement a web-based tracking system.

Non-Ionizing Radiation Concerns

Terry Lindsey reported that non-ionizing radiation concerns should be on the agenda long term for discussion. Currently, if the Oregon Board of Radiology Technology ultra sound and MRI legislation is successful it will come under new regulations and then we need to look at updating our rules.

Adjournment

The meeting adjourned at 3:45 p.m. The next meeting for the Radiation Advisory

Committee is scheduled for Wednesday, June 10, 2009.

Respectfully submitted,

Connie J. Grater