

TEXAS RADIATION ADVISORY BOARD MINUTES
4th Quarter Meeting
October 14, 2006
Austin, Texas

Michael Ford, C.H.P., Chair, called the meeting to order at 9:05 a.m. Members present for the meeting were: Bradley Bunn; Ana Cleveland, Ph.D; Earl Erdmann; Bob Haley; W. Kim Howard, M.D.; Rick Jacobi, P.E.; Nora Janjan, M.D.; Mitchell Lucas; Odis Mack; Troy Marceleno, P.E.; Bruce Matson, D.D.S.; Darlene Metter, M.D.; Kevin Raabe; Ian Hamilton, Ph.D. (via telephone).

Members not present were: Rosana Moreira; Michael Walsh

Guests present: Annette Glass, Representative Chisum's Office; Roger Mulder, State Energy Conservation Office; Ed Selig, Advocates for Responsible Disposal.

Texas Department of State Health Services (DSHS) central office staff present: Tom Godard

Department of State Health Services (DSHS) staff present: Richard A. Ratliff, P.E.; Ruth McBurney, C.H.P.; Cindy Cardwell; Tommy Cardwell; Ruben Cortez; Gary Smith, Ph.D.; Jerry Cogburn; Susan Tennyson; Pete Myers; Robert Free; Helen Watkins; Bill Silva; Kaye Goss-Terry; Jo Turkette; Kim Flowers.

Texas Commission of Environmental Quality (TCEQ) staff present: Devane Clark

Texas Railroad Commission (TRC) staff present: John Tintera.

- I. Minutes of the August 19, 2006, Quarterly TRAB Meeting were submitted for approval.

No corrections or comments were made in regards to these minutes.

On motion and second, the full board approved the minutes.

- II. Committee on Financial Assurance (Mack, Raabe, Jacobi)

Mr. Mack explained that the Committee, in conjunction with some of the State Board members, is in the process of convening to decide the direction to take on the insurance. After reviewing the options available, the Committee needs to determine which of the parties are able to satisfy the insurance requirements the Committee is proposing. The Committee is planning to convene via conference call within the next 2 weeks to decide which of the companies will insure and present the results at the next board meeting.

III. Medical Committee (Howard, Matson, Janjan, Haley)

Dr. Howard briefed the board on an item referencing 10 CFR Part 35 Training and Experience Requirements for Authorized Users on Medical Licenses. The NRC has interest in allowing specific exemptions for uses of certain isotopes. The NRC is currently reviewing one which allows medical oncologists to perform certain internal radiation treatments.

Dr. Janjan further expounded on the subject. She explained that a request has been forwarded for an exemption for a medical oncologist to administer radiolabeled monoclonal antibody therapy for cancer. Medical oncologists do not have specific training in radiation administration or in diagnosis. Patient safety is a concern because of renal function and the exposure to radiation, bone marrow function, and organ toxicities that could occur, should the improper dose of monoclonal antibody that has a radiation isotope attached to it, be administered. These exemptions are granted for need. Dr. Janjan explained that there is no shortage of physicians who can safely administer these types of medications. The American Society of Radiation Oncology has published a supplement discussing the requirements for administration of radiopharmaceuticals and the need for radiation oncologists to be involved because they are a risk to the organs and the dose that can be administered. The Medical Committee is therefore not in favor of this exemption. Furthermore, there have been some changes in Part 35 which have been recommended to decrease the training requirements for authorized users. This is also a concern because these exemptions reflect that discussion.

A motion was put forward by Dr. Janjan to send a letter to the NRC to further discuss the issue of the proposed changes in Part 35, Authorized User Training and Requirements, because the authorized user's status would be given to individuals who have not been trained in radiology, and none of the individuals who have board certification in any of the fields of radiology would have sufficient training requirements to be an authorized user. Questions were raised regarding patient safety, personnel safety (i.e., do personnel handling the materials in an office have training, and what do they do with these isotopes within the office), and the safety to the public as a whole, should someone abscond these isotopes. Drs. Janjan, Metter, and Howard provided comments and answered questions from committee members.

The board agreed to draft a letter to the NRC outlining the board's assessment of making changes to Part 35.

IV. Committee of the Whole Board

Item A:

Mr. Ford addressed the continuing meeting discussion and action on possible amendments to 25 TAC §289.202 to allow for DSHS recognition of NRC approvals of applications for alternative disposal made under 10 CFR 20.2002. In the last meeting, there was discussion on a possible remedy. One item discussed at the meeting was to submit a proposal to the DSHS and TCEQ on a path for moving forward. Mr. Ford requested a general discussion of options. Some of the options discussed included an exemption of material, a possibility of creating a licensed material, or a classification of licensed material.

Cindy Cardwell addressed the issues that DSHS has identified. Some of the issues discussed are that the DSHS does not believe the NRC adequately evaluates an application for an exemption of this type under the 10 CFR 20.2002 rule. It does not appear they evaluate the types and quantities of existing materials at such sites; they do not look at the total estimated future radioactivity at the site for multiple persons who may use this exemption; they have not looked at whether any non-AEA materials are present at the site or will be present at the site; and, the NRC does not appear to review the issue of multiple requests for the same site for different entities requesting the exemption. In the opinion of DSHS, there is not a total characteristic evaluation of the waste at the site, and that needs to be accomplished in order to evaluate long-term impact in terms of risk at a particular site. TCEQ has also sent DSHS a letter voicing similar concerns. Cindy further explained that TCEQ has a process by which a permittee, in this case the TCEQ's permittee, could request an amendment to their permit to accept radioactive material at their site. DSHS believes it would be unlikely they could draft a rule that would be consistent with their statutory justification required for such an exemption.

Board members, and other staff, continued the discussion, with the board making a motion to offer a letter that would provide the board's recommendations. The letter will be drafted through the Waste and Industrial Committee, and submitted to the board for review at the next meeting. The motion was approved.

Item B:

A motion was made on the action by the full board on recommendations of all committees, that the Medical Committee should propose a letter of their concerns to the NRC addressing their review of possible changes to the more recent revisions to the Authorized User Rule. The motion was approved. The letter will be drafted and presented to the full board.

V. Waste Control Specialists, Inc. low level waste and by-product material disposal license applications and related DSHS/TCEQ jurisdiction.

Richard Ratliff briefed the board on a meeting between DSHS and the uranium miners. He explained that DSHS is working, at the request of Senator Duncan, to review how the uranium should be regulated and protected as Waste Control Specialists has an application pending with the Agency for 11e.(2), which is a designation for uranium palings. As Senator Duncan is interested in a holistic regulation, the DSHS and TCEQ have been working together to see how this could be accomplished without jeopardizing the uranium industry. If the law needs to be changed, the agencies would prefer the law be revised to transfer the commercial disposal of 11e.(2) waste, and DSHS still regulate the uranium operations where the uranium be extracted from the ground, processed, and shipped for conversion. DSHS and the uranium miners are meeting with Senator Duncan on October 19, 2006, when the uranium miners will present their concerns to him.

The Board concluded, with a unanimous consent, to send a letter to Senator Duncan offering to work with him on this issue.

VI. Presentation by staff regarding the Nuclear Regulatory Commission's mandated increased controls for radioactive materials

Pete Myers provided a PowerPoint presentation regarding the Nuclear Regulatory Commission's mandated increased controls for radioactive materials.

VII. Program Reports

(A) Railroad Commission of Texas

John Tintera updated the board on the plugging of the D & G well. Site preparation will begin on October 17, 2006, and the rig for plugging should move onsite the following week, weather permitting. There is \$510,000 authorized for the plugging. After the well is plugged, the surface clean-up of the soils and equipment will begin. The cost is estimated to be \$3 to \$4 million dollars.

(B) Department of State Health Services

Richard Ratliff updated the board on the departure of Margaret Henderson and informed them that her position will be posted and hopefully filled by the next board meeting. Richard reminded board members of the requirement from the State Comptroller that the hotel receipt must have a zero balance in order to process reimbursement vouchers. The NRC will be visiting the Agency the third week in November to perform a follow-up program evaluation. Dr. Klein pointed out that the NRC will be reorganizing as they have multiple programs which have changed, and they need to have state as well as the names of the individuals that regulate agreement states. Janet Schlueter will remain over the Agreement State program. Richard distributed patches which contained radioactive material that have been confiscated by the Food and Drug Program to examine. The board and staff discussed the proposed cuts for the Legislative Appropriations Request.

Cindy Cardwell addressed the question from the board about the 2007 rulemaking schedule. The rules that are currently in the process are the revisions to the industrial radiography rules and the medical rules. Cindy Cardwell was also named the Chair-elect of the Organization of Agreement States.

Ruth McBurney updated the board concerning a working group, which has been formed, to review at the acceptance of the Licensed Medical Physicist's Certification for Medical Licensed Radiation Safety Officers. The group is also reviewing the possibility of recognizing the Licensed Medical Physicists in the therapy area as a specialty board which could be accepted for an authorized medical physicist under the new medical rules.

Gary Smith addressed questions from the board regarding concerns or support for uranium mining issues in Goliad County.

(C) Texas Commission on Environmental Quality

TCEQ is continuing its Statutory Waste Control Specialists Disposal License applications. TCEQ continues to work on closing historical buried radioactive waste sites that exist under TCEQ jurisdiction in Texas. The agency is also in the initial stages of the rulemaking process for establishing low-level radioactive waste disposal fees for the proposed Texas Low Level Radioactive Waste Disposal Compacting.

VIII. Board Member Requests for Agenda Items for Next Meeting

None

IX. Additional Public Comment

None

XIII. Next Meeting Date

January 6, 2007

Meeting Adjourned at 11:45 a.m.