

MINUTES OF THE PUBLIC HEALTH COUNCIL

MEETING OF JANUARY 13, 2010

MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH

**THE PUBLIC HEALTH COUNCIL OF
MASSACHUSETTS DEPARTMENT OF PUBLIC HEALTH
Henry I. Bowditch Public Health Council Room, 2nd Floor
250 Washington Street, Boston, MA**

Updated Docket: Wednesday, January 13, 2010, 9:00 AM

1. ROUTINE ITEMS: No Floor Discussion

- a. Compliance with Massachusetts General Laws, Chapter 30A, §11A ½ **(No Vote)**
- b. Record of the Public Health Council Meeting of December 17, 2009 **(Approved with minor correction)**

2. PRESENTATION: No Vote/Information Only

"Betsy Lehman Award for Excellence in Patient Safety", by John Auerbach, Commissioner, Department of Public Health

3. PRESENTATION: No Vote/Information Only

"ORAL HEALTH IN MASSACHUSETTS", by Dr. Jewel Mullen, Director, Bureau of Community Health Access and Promotion, and Lynn Bethel, RDH, Director, Oral Health Program and Richard Fuccillo, President, DentaQuest Foundation

4. PROPOSED REGULATIONS: No Floor Discussion/No Vote Information Only

- a. **Informational Briefing on Proposed Amendments to 105 CMR 130.000 (Hospital Licensure Regulations)** Related to (1) Additional Hospital Accreditation Organizations approved by CMS/Commissioner and (2) Correction to Medical Records Retention
- b. **Informational Briefing on Proposed Amendments to 105 CMR 120.000: Massachusetts Regulations for the Control of Radiation (MRCR)**

The Commissioner and the Public Health Council are defined by law as constituting the Department of Public Health. The Council has one regular meeting per month. These meetings are open to public attendance except when the Council meets in Executive Session. The Council's meetings are not hearings, nor do members of the public have a right to speak or address the Council. The docket will indicate whether or not floor discussions are anticipated. For purposes of fairness since the regular meeting is not a hearing and is not advertised as such, presentations from the floor may require delaying a decision until a subsequent meeting.

PUBLIC HEALTH COUNCIL

A regular meeting of the Massachusetts Department of Public Health's Public Health Council was held on January 13, 2010, 9:15 a.m., at the Massachusetts Department of Public Health, 250 Washington Street, Boston, Massachusetts in the Henry I. Bowditch Public Health Council Room. Members present were: John Auerbach, Commissioner, Department of Public Health, Ms. Helen Caulton-Harris, Dr. John Cunningham, Mr. Paul Lanzikos (arrived at 9:20 a.m.) Mr. Denis Leary (arrived at about 9:45 a.m.), Ms. Lucilia Prates Ramos (arrived at 9:20 a.m.), Mr. José Rafael Rivera, Dr. Meredith B. Rosenthal (arrived at 9:25 a.m.), Mr. Albert Sherman (arrived at 9:26 a.m.), Dr. Michael Wong, and Dr. Alan C. Woodward. Absent members were: Dr. Michèle David, Dr. Muriel Gillick, and Dr. Barry Zuckerman. There is one vacancy. Also in attendance was Attorney Donna Levin, DPH General Counsel.

Chair Auerbach announced that notices of the meeting had been filed with the Secretary of the Commonwealth and the Executive Office of Administration and Finance. He noted that the meeting started late due to his dealing with matters relating to the earthquake in Haiti. He noted the docket items that would be heard as listed on the docket of the meeting, except the vote on the minutes will be delayed until a quorum of Public Health Council Members are present.

Note for the record, Council Members Ms. Lucilia Prates Ramos and Mr. Paul Lanzikos arrived during Chair Auerbach's introductory remarks above at approximately 9:20 a.m. Council Members Dr. Meredith Rosenthal and Mr. Albert Sherman arrived during the presenting of the Betsy Lehman Award to UMass Memorial Medical Center, at approximately 9:25 a.m.

PRESENTATION: "BETSY LEHMAN AWARD FOR EXCELLENCE IN PATIENT SAFETY", BY JOHN AUERBACH, COMMISSIONER, DEPARTMENT OF PUBLIC HEALTH:

Chair Auerbach stated in part, "...The Betsy Lehman Center, every year, identifies outstanding work that has been done in addressing different aspects of patient safety, and the promotion of good medical practices, and every year it identifies a different topic that it will focus on and draw attention to, and this year the issue that was focused on was the issue of the prevention of hospital-associated infections (HAIs). It is very appropriate that we are having the presentation of awards at the Public Health Council meeting because the Public Health Council has played an important role in terms of elevating the issue of hospital-associated infection. I believe now it is more than two years ago that the Council first began its discussion about the seriousness of hospital-associated infections, and the fact that more than four hundred million dollars a year is spent on treating hospital-associated infections and, more importantly, serious illness and, in some instances, deaths result from these health care acquired infections. We were involved, as a Council, in terms of identifying specific action steps that could be taken. The Council advised the Department of Public Health about a variety of different efforts that we should be involved in, and the Council voted on regulations that required that hospitals throughout the Commonwealth have to report certain hospital-associated infections..."

Chair Auerbach continued, "...We reached out to the hospitals in the Commonwealth and said, this year we are going to be focusing on what has been done creatively by your hospital to address this issue, and we received some outstanding applications. The applications that we received were unusually strong this year and part of that was because the applicants spoke to us frankly about this not being an easy issue to address. It requires a great deal of teamwork. It requires acknowledging where efforts have been made and they haven't always worked, and there has been a need to go back to the drawing board, but the applicants also highlighted for us that it was

possible to make progress if there was a coordinated effort, and it was prioritized by the institution.”

Chair Auerbach stated further, “Two of the applicants were cited as being truly outstanding and, therefore, worthy of sharing the receipt of this year’s award, and those two recipients are the University of Massachusetts Memorial Medical Center’s Division of Cardiac Surgery and Marlborough Hospital, also associated with the University of Massachusetts....”

Dr. Stanley Tam, Chief, Cardiac Surgery accepted the award to UMass Memorial Medical Center – Division of Cardiac Surgery, stating in part, “On behalf of the entire Cardiac Surgery Team and the Senior Management Team at UMass Memorial, I would like to thank the Betsy Lehman Center and DPH Review committee for giving us this prestigious award....For UMass Memorial, this award represents an extraordinary turnaround for us. You may recall, not long ago, in the fall of 2005, UMass Memorial Cardiac Surgery was known to have poor clinical outcomes. The program was closed for two weeks following a review of statistics over mortality rate of coronary bypass graph surgery. It was deemed too high compared to the state average and here we are today, being cited for Excellence in Patient Safety and Quality of Care. It is really tremendous for us to be here. The key for this turnaround is really teamwork.”

Dr. Tam continued “Team members include not only nurses and physicians, but also hospital managers, administrators and the senior management team. Basically, we took on a challenge directly, to put into place a system-wide planning and collaboration efforts, execution in what we need to do, and some of the team members are here, in the back there, and it is them who did actually all the work, and we should thank them.” He noted members of the team present: Melinda Darrigo, PhD, NP, Clinical Coordinator of Cardiac Surgery, Christian Mueller, MD, Chief, Division of Cardiac Anesthesiology, John Laszlo, RN, Staff Nurse, Heart and Vascular Intensive Care unit, Christine Ross, R.N., Staff Nurse, Heart and Vascular Intensive Care unit, Maureen Lynch, RN, Staff Nurse, Heart and Vascular Intensive Care Unit, Laura Neverett, RN, Staff Nurse,

Heart and Vascular Intensive Care Unit, Jay Cyr, RN, MBA, Vice President, Heart and Vascular Center, Gail Frigoletto, RN, Director of Nursing, Heart and Vascular Center, Laura Everett, RN, Nurse Manager, Cardiac Surgery Acute Care Unit, Robert Klugman, MD, Chair, Quality Officer.

John Polanowicz, President and CEO of Marlborough Hospital accepted the award for Marlborough Hospital. He stated in part, "...Today, we are honored to receive the distinguished Betsy Lehman Award. At Marlborough Hospital, we take to heart the valuable lessons learned that culminated in the creation of the Betsy Lehman Center for Patient Safety and Medication Error Reduction. We could not have accomplished these results without an incredible team, many of who are here today, dedicated to the highest quality of care in a community setting, with this year a very special focus on reducing central line infections and hand hygiene." He noted other members of the team present: Kathy Berry, RN, Director of Performance Improvement, Deb Chaulk, RN, Performance Improvement Manager, Judy Connelly, RN, Director of Education, Donna O'Conner-Director of Infection Prevention, Taryn Kennedy, Director of Emergency Medicine, Kim Robinson, MD, Director of ICU, Vibha Sharma, MD, Director of Infection Prevention, Melissa Hodgson, Director of Marketing and Communications, and Arthur Bergeron, JD, attorney for Hospital Board of Directors. In closing, Mr. Polanowicz said, "As you can see from the awardees here today, high quality, safer care is being delivered here in the Commonwealth at both our large academic medical centers and in the community hospital settings. Our hospitals here in Massachusetts are not perfect, but you should know that we are very, very good, and each and every one of us is committed to improvement, to become even better and safer for our patients..."

Certificates of Merit were awarded to three applicants: Lahey Clinic Hospital, Infection Control Program; Dr. Richard Duncan, Hospital Epidemiologist accepted the award; Massachusetts General Hospital – the Central Line Infection Reduction Workgroup; and Children's Hospital, Boston - Neonatal Intensive Care Unit. MGH and Children's Hospital representatives were not present to accept the award.

**RECORD OF THE PUBLIC HEALTH COUNCIL MEETING OF
DECEMBER 17, 2009:**

Chair Auerbach noted that a quorum was now present so the vote was taken on the minutes. Mr. Albert Sherman moved approval of the minutes. Dr. Alan Woodward seconded the minutes with an amendment, updating the name of the task force he co-chairs, page 13 of the minutes to "The Statewide Boarding and Patient Flow Task Force." After consideration upon motion made and duly seconded, it was voted unanimously as follows: (Chair Auerbach, Ms. Caulton-Harris, Dr. Cunningham, Mr. Lanzikos, Ms. Prates Ramos, Mr. Rafael Rivera, Dr. Rosenthal, Mr. Sherman, Dr. Wong, and Dr. Woodward in favor; Drs. David, Gillick and Zuckerman absent and Mr. Leary not present to vote and one vacancy) to approve the **Record of the Public Health Council Meeting of December 17, 2009**, with Dr. Woodward's correction as noted above.

**"ORAL HEALTH IN MASSACHUSETTS", BY DR. JEWEL
MULLEN, DIRECTOR, BUREAU OF COMMUNITY HEALTH
ACCESS AND PROMOTION, AND LYNN BETHEL, DIRECTOR,
ORAL HEALTH PROGRAM:**

Chair Auerbach noted that though great progress has been made over the years in oral health in the Commonwealth, the data shows more needs to be done. He further said, "Fortunately for us at the Department of Public Health, we have a strong Office of Oral Health that has been actively involved in addressing the various deficiencies, pointing them out with data, and developing policies and programmatic responses to ensure that we are drawing attention to the issue and moving forward. We decided this would be an important meeting for us to share with you a report that has just been developed by our Oral Health Unit, and to have a panel discussion that identifies some more details about where we are in Massachusetts, in addressing oral health."

Note: Council Member Denis Leary arrived at the meeting during Ms. Bethel's remarks, at approximately 9:45 a.m.

Dr. Jewel Mullen, Director, Bureau of Community Health Access and Promotion said in part, "I want to frame my brief comments with the perspective that I had when I arrived in Springfield in 2001, as the Medical Director of a neighborhood health center, as a clinician, as an internist, taking care of young and older adults....It was striking to me the numbers of teenagers and young adults who were missing key teeth, and the degree to which we needed to, periodically, treat people with pain medication and antibiotics just to help tide them over until they could see someone who could take care of their abscesses, and to help get dental care for diabetics who were unable to eat proper diets to help maintain their blood glucoses because their dentition was so poor. It was a learning experience for me then to really consider the degree to which we couldn't address all of the needs of our patients without really looking at their mouth almost as a window into the rest of their health and it is with that perspective that I think it is really valuable for us to be able to discuss the oral health burden document today...."

In closing she said, "I would just conclude by saying that, as we continue to drive home the message that access to medical care is a right and not a privilege, I think we really have to underscore that access to dental care is a part of that, and it is not a luxury, like when people think about medical care, they don't think about oral health, it is not a luxury, it is a part of the right. It is good basic medical care."

Ms. Lynn Bethel, Director, Office of Oral Health, stated in part, "This report, 'The Status of Oral Disease in Massachusetts – A Great Unmet Need 2009' was released in November 2009. In 2000, the Department of Public Health released the Special Legislative Commission Report on Oral Health. It was authorized and released by Chapter 170 of the Acts of 1997, and it actually served as a foundation, at that moment in time, almost ten years ago, to address oral health disparities. It was supplemented by a spotlight that the U.S. Surgeon General made on oral health in the first national report, where they really cited oral and dental diseases as a silent epidemic."

She noted that there is a national (CDC supported) oral health surveillance system.

Ms. Bethel said in part regarding pregnant women, "...Through research there is increased evidence that poor oral health leads to preterm and low birth weight babies. Consider the cost of a cleaning and the determination of any type of dental disease, potentially less than \$100.00, but the cost of having that child born preterm or having low birth, having to live its first weeks of life in the NICU unit, or potentially longer term health problems, it is going to cost the Commonwealth and that family a whole lot more money."

Ms. Bethel noted that with support from a federal grant, they conducted a statewide assessment of elders in Massachusetts from February to July of 2000 in partnership with Harvard School of Dental Medicine that did the oral cancer screenings, while the Office of Oral Health did the rest of the assessment. They surveyed 21 randomly sampled state subsidized meal sites and 21 randomly sampled nursing homes in rural and urban areas of the Commonwealth. Ms. Bethel said, "What we found in those state subsidized meal sites were that 75% of those residents did not have any dental insurance. Just 25% were on MassHealth." It was noted that Medicare doesn't cover most dental work and very few of them are eligible for Medicaid and further that many elderly have to choose between paying for their medication or dental care. She continued, "We know that 67% of these seniors living in the community have a dentist but less than 50% of them have seen their dentist within the last 12 months and 20% hadn't seen their dentist in five years."

In the nursing homes, Ms. Bethel found 35% of residents were fully edentulous (had no teeth). For those with teeth, 59% had untreated decay and little access to dental care. Twenty-five percent had early dental needs and 7% had urgent dental needs, 75% had gingivitis.

Regarding fluoridation, Ms. Bethel noted that Massachusetts has had it since 1951 and said further in part, "For every one dollar in fluoridation, we have thirty-eight dollars in savings for dental treatment costs. Currently there are 140 communities in

Massachusetts that are fluoridating or 3.9 million residents who receive the health and economic benefits of fluoridation (59% of the Massachusetts population). Fluoridation is the most cost effective, efficient and equitable means to prevent tooth decay.”

She further noted that Massachusetts has a CDC backed school-based sealant program (a coating placed on the backs of molar teeth to help prevent cavities). It also has a program where portable dental equipment can be used to put sealants on children’s teeth. In 2008 and 2009, the Department placed more than 5,000 dental sealants in three communities in the western part of the state. The Department is working with public health dental hygienists to educate them to go out to the schools and nursing homes to increase access to preventive services. Currently the Department has 50 dental programs located in community health centers or in their satellites (over 380,000 patient visits in calendar year 2008). DPH also offers a loan repayment program for dentists and dental hygienists in the state, who are interested in working in community health centers and dental health professional shortage areas. The Office of Oral Health has a web site www.mass.gov/dph/oralhealth with a lot of information including a training program on-line for medical professionals to learn more about oral health.

Some further statistical highlights from the report:

- Oral Health Disease is the number one chronic disease for children. It is five times more common than asthma, in that population group.
- 57% of women did not have their teeth cleaned during their pregnancy
- 17% of the state’s 3rd graders had untreated decay
- 71% of non-Hispanic Black 3rd graders did not have dental sealants
- 93% of public schools did not have a school-based oral health prevention (dental sealant) program
- 66% of licensed dentists with a Massachusetts address are not MassHealth (Medicaid) providers

Mr. Ralph Fucillo, President of DentaQuest Foundation addressed the Council. He said in part, "...We are dealing with nearly a hundred percent preventable disease here....In January of 2008, we gathered at the State House and heard the release of the report called *The Oral Health of Massachusetts Children, 2008*. When you think about one in ten children sitting in class, in pain, or having some difficulty as an obstacle to learn, that was quite alarming, and we decided... that it was time to create a leadership focused on this issue.

Mr. Fucillo described a coalition that was formed called 'The Better Oral Health for Massachusetts Coalition'. "Its mission is simply to improve the oral health of the residents of the Commonwealth. There is a Design Advisory Committee to lead the Coalition and work groups that are addressing goals and objectives such as access, policy, advocacy, public awareness issues, diversity of the workforce, the statewide assessment and surveillance systems and an oral health action plan."

Mr. Fucillo noted further, "...The idea that this is a health issue has strengthened our policy agenda and when I say the policy agenda, it is very broad and I think understanding the efficacy of the data, as well as the fact that we have been able to, through the work of advocates in Massachusetts, built a very strong Medicaid benefits model, and I think including adult dental benefits in that has been a real credit to the Commonwealth..."

In closing, he noted that the action plan may be released in February by the Coalition. He noted that a national assessment funded by the PEW Center, The Kellogg Foundation, and DentaQuest Foundation will be released shortly. He said, "The report specifically focuses on advancing children's oral health; however, as Lynn said, many of us are committed to a life span approach to this, and I think that we would do well, in the Commonwealth to continue that overarching view of oral health as connected to the well-being of all our residents..."

Discussion followed by the Council, please see the verbatim transcript for the full discussion. Dr. Michael Wong, Council Member stated in

part, "...As a health care provider, who is an Infectious Disease trained specialist, I think one of the other areas that rarely comes up is the downstream complications that are also sated with poor dental hygiene and dental health. Fifty percent of our cases that are discussed have something to do with poor oral hygiene that has resulted in their hospitalization - either aspiration pneumonias, bloodstream infections associated with oral pathogens, head and neck complications or subsequent complications associated with underlying malignancies that were also associated with some issue with poor oral health." He further noted, "We are a reaction-related type society and we need to become a prevention approach society, so folks don't respond to tooth pain but actually recognize that prevention results in downstream dividends that keep them out of the hospital and help lower health care costs."

Discussion continued around why towns/cities don't fluoridate the water supply. Ms. Bethel said each town board of health has the authority to call an order to fluoridate the water. Council Member Ms. Helen Caulton-Harris, Director, Division of Health & Human Services, City of Springfield noted that her experience in Springfield is that the process to fluoridate the water supply is not so simple as just the Board of Health (Springfield Public Health Council) issuing an order because other politics of the community comes into play, one being the Water/Sewer Commission, as an independent entity has a role in the city's ability to fluoridate the water. They have already made two attempts to fluoridate Springfield's water and will be taking up the issue again shortly.

Mr. Paul Lanzikos, Council Member inquired about access for various populations (i.e., seniors in nursing homes, senior centers and for the physically and mentally disabled). Ms. Bethel responded that Governor Patrick signed in law in January of 2009, legislation, part of Chapter 530 of the Acts of 2008, allowing dental hygienists, who are licensed with the Commonwealth, who have three years of full-time clinical experience and additional training to work without the supervision of a dentist in public health settings. It was noted that Massachusetts will be the 29th state to allow dental hygienists to work in a Public Health setting. During discussion, Dr. Mullen noted, "...We

need to expand the notion that people can get a lot of preventive care from non-dental health professionals, such as the Public Health dental hygienists and we need to push for more oral health care within the community health center network.” It was noted that home water filtration systems such as Britas will not remove the fluoride from your water, however, reverse osmosis filters will.

No Vote/Information Only

PROPOSED REGULATIONS:

INFORMATIONAL BRIEFING ON PROPOSED AMENDMENTS TO 105 CMR 130.000 (HOSPITAL LICENSURE REGULATIONS) RELATED TO (1) ADDITIONAL HOSPITAL ACCREDITATION ORGANIZATIONS APPROVED BY CMS/COMMISSIONER AND (2) CORRECTION TO MEDICAL RECORDS RETENTION:

Ms. Elizabeth Daake, Director of Policy Development and Planning, Bureau of Health Care Safety and Quality, accompanied by Attorney Lisa Snellings, Deputy General Counsel, Office of the General Counsel explained the two proposed minor amendments to the Hospital Licensure Regulations to the Council.

Staff’s memorandum to the Council, dated January 13, 2010, from Alice Bonner, Director, Bureau of Health Care Safety and Quality further explained the amendments as follows:

Hospital Accreditation Organizations by CMS and the Commissioner:

“Under the current licensure regulation, hospital accreditation by either the Joint Commission or the American Osteopathic Association are accepted for the purposes of granting deemed status by the Commissioner. Hospitals with deemed status are exempt from inspection for compliance with most Medicare Conditions of Participation. In September 2009, the federal Centers for Medicare and Medicaid Services (CMS) approved Det Norske Veritas Healthcare, Inc. as an additional deemed status accreditation

program for hospitals. The proposed amendments will allow any new entity approved by CMS and the Commissioner to be accepted for the purposes of granting deemed status to hospitals.”

Retention of Medical Records:

“In July 2009, the Department amended the medical record retention section of the hospital licensure regulation, 105 CMR 130.370. Staff is proposing a correction to the section to add a phrase that was inadvertently omitted from the final regulation: “generally indicating the type of records to be destroyed and the dates of service which exceed the applicable retention period.” The omitted language is included in the corresponding section of the clinic regulation, 105 CMR 140.302 (F). The correction is necessary so that the language is identical in the hospital and clinic licensure regulations.”

Ms. Daake noted that the public hearing on the proposed amendments will be held on February 12, 2010 at the Department of Public Health, 250 Washington Street, 2nd Floor in the Public Health Council Room at 10:00 a.m. and that the proposed amendments will be brought back to the Council, with any revisions as a result of the public comments in the Spring of 2010.

No Vote/Information Only

INFORMATIONAL BRIEFING ON PROPOSED AMENDMENTS TO 105 CMR 120.000: MASSACHUSETTS REGULATIONS FOR THE CONTROL OF RADIATION (MRCR):

Robert Gallagher, Acting Director, Radiation Control Program, accompanied by James Ballin, Deputy General Counsel, Office of the General Counsel and Salifu Dakubu, Ph.D., Supervisor, Radioactive Materials Unit, presented the Radiation Control regulations to the Council.

Mr. Gallagher stated in part, “The Massachusetts Radiation Control Program regulates all sources of radiation in the Commonwealth through licensing, registration, inspection and enforcement.

Massachusetts became an Agreement State in 1995. By Federal Law, radioactive materials are regulated by the Nuclear Regulatory Commission, the NRC, and an Agreement State is one to which the NRC has relinquished responsibility for regulatory oversight of these materials to the State. That allows us to regulate these materials throughout the Commonwealth..."

Mr. Gallagher further noted, "...The Radiation Control Regulations specify the minimum requirements for the safe use of radioactive materials and machines, which omit ionides and radiation for the purpose of protecting the general public from hazards associated with these materials. These regulations were originally approved by the Public Health Council in February of 1995 and amended in October of 2006."

Mr. Gallagher explained, "We need to make some changes to these regulations in order to protect the public health and prevent terrorism. Federal laws have been passed in recent years, relative to radioactive material. The first was the Federal Energy Policy Act of 2005, passed by Congress, which mandated new security requirements. The Nuclear Regulatory Commission also passed new training and experience requirements for medical use of materials, and also transportation requirements for packaging and transportation of radioactive materials, for compatibility with international laws..."

Staff's memorandum to the Council, from Suzanne Condon, Associate Commissioner, Director, Bureau of Environmental Health, and dated January 13, 2010 explains in more detail the proposed amendments:

1. The NRC changed their definition of byproduct material in 10 CFR Part 30...Added to this definition was any radioactive material that has been made radioactive by use of a particle accelerator; any radioactive material produced, extracted or converted after extraction for use for a commercial, medical or research activity; and any discrete source of naturally occurring radioactive material. This has resulted in a number of changes throughout these regulations. [Since Massachusetts has been regulating these

other types of radioactive materials for more than 10 years, these changes will have no effect on licenses in the Commonwealth].

2. The events of 9/11 have put new emphasis on security to prevent the malicious use of radioactive material, such as in dirty bombs. Following the passage of the Nuclear Security section of the Federal Energy Policy Act of 2005, the NRC has adopted a number of new regulations that we have incorporated into these revised regulations. We have added a new section requiring Category 1 and 2 sources to be tracked during their entire use and for the reporting of transactions involving these nationally tracked sources. While these changes will affect some licensees in the Commonwealth, it will not affect the majority of our licensees since only a few of them possess Category 1 or 2 sources [using Iridium-192 as an example (because it is found in many medical institutions across the Commonwealth), the Category 1 quantity is 2,200 curies and the Category 2 quantity is 22 curies].
3. A new section [105 CMR 120.403 (A) (2)] ensuring x-ray systems are in safe operating condition has been added. In order to protect the health and safety of the patient and others from unnecessary radiation exposure, the proposed amendments require the systems to be checked when first installed and after any major changes or replacement of parts. These new requirements also require periodic calibrations and annual preventative maintenance made by a registered service provider or under the supervision of a qualified expert.
4. The Nuclear Regulatory Commission revised their regulations for the medical use of radioisotopes [10 CFR Part 35] to focus on those medical procedures that pose the highest risk to workers, patients and the public, and to structure its regulations to be more risk-informed and more performance-based. The Massachusetts regulations for the use of radionuclides in the healing arts [105 CMR 120.500] have been revised to implement these changes for compatibility with federal as well as other agreement state regulation. One significant change has been made to the training and experience requirements for radiation safety officers and

authorized users and other medical staff directly involved in patient treatment [authorized medical physicist; authorized nuclear pharmacist; authorized therapy physicist]. Using the authorized medical physicist (AMP) as an example, the proposed regulations require the AMP to be an individual who (a) is certified by a specialty board whose certification process has been recognized by the NRC or an agreement state [requirements for having the certification process recognized are stated further in the proposed regulation] or, (b) who holds a master's or doctor's degree from an accredited college or university and has completed 1 year full time training in medical physics and an additional year of fulltime work experience under the supervision of a current AMP [i.e. the preceptor pathway].

5. Requirements in existing MDPH regulations that have been pre-empted by the Federal Department of Transportation (DOT) regulations have been revised to be fully compliant with DOT and NRC requirements. Both the DOT and NRC requirements have incorporated changes to the international transportation requirements mandated by the International Atomic Energy Agency in their efforts to protect radioactive materials of concern. It is important to note that the international safeguards the NRC is putting in place are similar to what Massachusetts has had in place for many years with respect to ensuring that shipments of radioactive materials are shipped to legitimate foreign licensees and that all shipments are received by foreign licensees within the expected time-frame.

In summary, Mr. Gallagher stated, "We have adopted new security requirements....We have addressed inconsistencies within our regulations, established training and experience requirements for the medical use of radioactive materials, and we have adopted requirements regarding the packaging and transportation of material for compatibility with international transportation standards...."

Mr. Gallagher noted that notifications will be sent out to the newspapers, draft copies of the proposed revisions will be sent to interested parties, and a public hearing and a comment period will be

held. The proposed regulations will return to the Council for a vote probably in the spring.

A brief discussion followed by the Council. Please see verbatim transcript for full discussion. Council Member Lanzikos inquired about adequate funding for the program. It was noted that the program receives funding from two sources, a state line item and a retained revenue account from fees and licenses. The program now is allowed to keep 1.6 million dollars out of 4 million dollars brought in. Mr. Gallagher noted that he could use more staff to support the Agreement State activities but he can't hire them due to the cap on the retained revenue account. Mr. Lanzikos stated, "...We might want to convey that sufficient attention be given to those funding priorities because, for the sake of a few hundred thousand dollars for attracting and retaining the right personnel and the right equipment, we shouldn't be jeopardizing the Commonwealth's well-being."

No Vote/Information only

The meeting adjourned at approximately 11:00 a.m.

John Auerbach, Chair

LMH