

June 23, 2014

The Honorable Jane Nelson, Chair
The Honorable Four Price, Vice Chair
Texas Sunset Advisory Commission
P.O. Box 13066
Austin, TX 78711

Dear Chair Nelson, Vice Chair Price, and members of Texas Sunset Advisory Commission:

The University of Texas MD Anderson Cancer Center is concerned that the Texas Sunset Advisory Committee Staff Report on the Texas Department of State Health Services (DSHS) does not accurately reflect the current environment of professional regulations and health care in Texas or the importance of licensure in protecting Texans from unnecessary exposure to radiation.

The overall professional community is growing ever more concerned about medical radiation overexposures (accidental overdoses of radiation), and medical physicists help maintain quality and safety programs and thus protect the public from these incidents.

The report suggests that the DSHS regulatory programs are unnecessary because: (1) deregulation would have little impact on health and safety, (2) they cover professionals that operate in a highly regulated environment, (3) they have "regulation" provided by another body or through private sector accreditation, and (4) they generate little regulatory activity.

We would like to address each of the areas to provide you with additional information we believe may be helpful as you discuss this issue:

1. The report states "deregulation would have little impact on health and safety." Texas is very fortunate to be home to some of the most advanced imaging and treatment facilities in the world. In order for equipment used in these facilities and elsewhere in Texas to operate safely, highly trained individuals are required to assure the safe use of the equipment. Professional regulations are essential. In Texas, elsewhere in the U.S., and worldwide there have been some very serious injuries associated with radiation emitting equipment. In fact, several of the world's most serious patient injuries associated with medical radiation equipment took place in Texas before medical physicist licensure was implemented.

Currently, licensed medical physicists are required to provide annual performance evaluations on radiology and radiation oncology equipment to assure that they meet regulatory standards. In radiation therapy, licensed medical physicists must also conduct

measurements and calculations to ensure the accurate treatment of patients. Without such requirements, these annual quality assurance measures might not be performed or could be performed by others with inadequate qualifications. Licensure in Texas requires certification by the American Board of Radiology, which assures the public that a minimum qualification has been met. Without licensure, that minimum level of knowledge would no longer be a requirement, and negative future consequences could likely result. Also, with growing public concern about radiation risk, removing safeguards already in place in Texas (through licensure) seems unwise.

2. The report states the medical physicist licensure program is a “profession that operates in a highly regulated environment.” It is true that exposure to radiation in medical applications is regulated for adherence to equipment specification. It is not true that those who practice in radiation imaging, nuclear medicine or therapy are regulated by any other government entity except for those who provide services to support the Mammography Quality Standards Act (MQSA). Less than professional conduct has been a contributor to numerous medical errors. In 2009, reports of medical errors in the Veteran Administration highlighted lack of professional responsibility and accountability. Professional licenses hold individuals accountable in providing services that meet regulatory compliance. When the services do not meet this requirement, professional licensure standards can be used for enforcement against the professional licensee. Without a medical physicist license this would not be possible.
3. The third item in the report to be addressed is the view that medical physicists “have ‘regulation’ provided by another body or through private sector accreditation.” We are not aware of any duplication of professional accountability for medical physicists in another regulatory body or accreditation that meets the equivalent standards for a licensed professional with the exception of the MQSA requirements. In fact, accreditation does not cover all the types of medical imaging services or radiation therapy. For some imaging and radiation therapy practices, accreditation is voluntary and does not require the use of board-certified medical physicists with specific areas of expertise. Without licensure, there would be no requirement to use board certified physicists. It is only through licensure that all medical physicists practicing in Texas must meet continuing education requirements because some board certified individuals are not required to demonstrate acquisition of continuing education requirements.
4. The last rationale in the report that medical physicists “generate little regulatory activity” is confusing. Do we only regulate those professions that generate regulatory activity? Is it possible that because of regulations, medical physicists are meeting the requirement of the regulations, improving health care in Texas, and do not require extensive support from agency staff? The Texas licensure law was written and enforced to protect citizens from individuals with little or no knowledge of radiation equipment from providing services that could in fact harm them. Licensed medical physicists must meet minimum educational and board certification requirements to obtain a license. To maintain their Texas licenses, medical physicists must meet continuing education requirements each renewal cycle, consistent with other medical professionals.

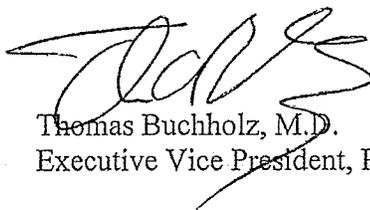
Medical physicists are essential for patient safety in diagnostic imaging (radiology), nuclear medicine and radiation therapy. Professional licensure helps to ensure that well qualified

individuals provide these services. The institution would be glad to further discuss with you the importance of medical physicist licensure and why it should remain in place. Please do not hesitate to contact us at 713-792-8209 if you have questions or would like additional information.

Sincerely,



Ronald A. DePinho, M.D.
President



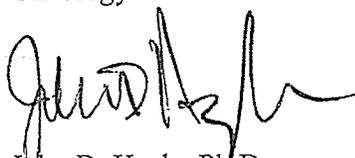
Thomas Buchholz, M.D.
Executive Vice President, Physician-in-Chief



Bruce Minsky, M.D.
Division Head Ad Interim, Radiation
Oncology



Marshall Hicks, M.D.
Division Head, Diagnostic Imaging



John D. Hazle, Ph.D.
Chair, Department of Imaging Physics



Geoffrey S. Ibbott, Ph.D.
Chair, Department of Radiation Physics

Daddy MP0466

Charles Miller MP0117

R. [Signature] MP0580

F. [Signature] MP0538

[Signature] MP00108

Thomas K. [Signature] MP0548

[Signature] MP0592

A. Kyle Jones, Ph.D. A. Kyle Jones, MP10224

[Signature] MP10356

[Signature] MP10089

Anna M. [Signature] MP0555

Justin A. [Signature] MP10420

[Signature] MP0545

W. R. [Signature] MP0508

[Signature], MP0549

Petr But Petr Buter

WV Yelin Suh

Jellicorne Polara

Gabriel Sawanah

Sam Tung Sam Tung

Dragan MIREK

Song Bao Song Gao

Radhha Mohan

Ram Sadagopan M.S.

M. GILIN

Mingfun Liu

Derhan LUO

James Wang

WANG, XIN

JIHONG WANG

Ramesh Tailor

LAURENCO COUET

Pai-Chen

Zhifei Wen

He Wang

Congjin Wang

TM Briere

PSE-Fong Wong

Xiaochun Wang

Rajat Kudchadker, Ph.D.

M. M.

~~W. M.~~

Key

W. M.

Book-Liang Sun

Just a name

Roberta M. Howell

M. B. Salup

A. R.

Narayan Sahoo

Richard Wu

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Joeris

Xiaorong R. Zhu, PhD

Heng Li, PhD

Xiaodong Zhang, Ph.D.

Falk, Poenisch

June 27, 2014

The Honorable Jane Nelson, Chair
The Honorable Four Price, Vice Chair
Texas Sunset Advisory Commission
P.O. Box 13066
Austin, TX 78711

Dear Chair Nelson, Vice Chair Price, and members of Texas Sunset Advisory Committee:

On behalf of the faculty, staff and patients of The University of Texas MD Anderson Cancer Center, we are writing to share our concerns about Sunset Commission recommendations regarding Texas Department of State Health Services inspections of tanning facilities. Research clearly shows that indoor tanning significantly increases the risk of melanoma, basal cell carcinoma and squamous cell carcinoma. Individuals who start indoor tanning before 18 years of age have an 85 percent increased risk of developing melanoma. The significant negative impact of indoor tanning on public health influenced the 83rd Texas Legislature to enact state law, which became effective September 2013, that prohibits use of an indoor tanning facility by a minor under 18 years of age. Compliance with the new law by tanning facilities will reduce exposure to artificial ultraviolet radiation in minors, thereby reducing their risks of skin cancer.

The Texas Sunset Advisory Commission has recommended that the Department of State Health Services discontinue inspections of tanning facility equipment, citing that deregulation would have little impact on public health. We strongly contend that the DSHS regulatory program for tanning facilities should not be eliminated. Tanning facilities may not comply with the new age restriction, and lack of enforcement would lead to minor access to tanning facilities and the associated exposures to artificial ultraviolet radiation that increase skin cancer risk.

While the Texas Sunset Advisory Commission recognizes that tanning beds pose a danger to an individual's health through prolonged skin cell damage and skin cancer risks, the recommendation to discontinue state regulation is based on the expectation that skin cancer risks are well-known to the general public and consumers have ample information to make informed decisions about whether or not to purchase tanning services.

However, misleading health claims by tanning facilities and misconceptions about health risks in the general population lessen the consumer's ability to adequately assess the skin cancer risks of tanning bed exposure. Furthermore, individuals are motivated to use tanning beds by factors other than their health, such as their appearance and social pressures to tan. Appearance and social pressures are particularly strong influences on adolescents' decisions to use tanning beds.

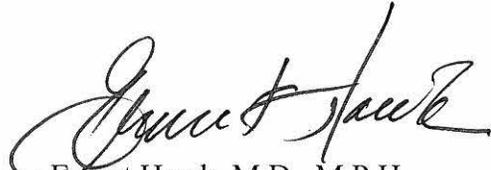
Altogether, these considerations make DSHS regulation of tanning facilities critically important to protect the health of Texans.

If DSHS discontinues its regulatory program for tanning facilities, we seek clarification as to which agency would be responsible for enforcing the state tanning facility law, particularly the prohibition of minor access to tanning facilities.

Sincerely,



Ronald DePinho, M.D.
President



Ernest Hawk, M.D., M.P.H.
Vice President and Head
Division of Cancer Prevention and
Population Sciences



Jeffrey Gershenwald, M.D.
Professor, Department of Surgical Oncology
Professor, Department of Cancer Biology
Medical Director, Melanoma and Skin Center