

NRC MEDICAL RULEMAKING WORKSHOP

Relaxation of Preceptor Attestation Requirements; and Extending Grandfathering to Certain Certified Individuals (Ritenour Petition) –

American Association of Physicists in Medicine (AAPM) Comments

Ralph P. Lieto, MSE DABR FAAPM FACR

Preceptor Attestation

The AAPM has been a strong proponent of eliminating preceptor attestation for board certified individuals since it was originally mandated by the Commission in 2003. NRC action occurred over the strong, concurrent objections of the medical user community.

Preceptor Attestation

- NRC should eliminate the attestation requirement for:
 - a) individuals seeking authorized status via the board certification pathway ; and
 - b) boards whose processes have been recognized by the NRC or Agreement States; and
 - c) individuals “grandfathered” under 10 CFR 35.57.

Preceptor Attestation

The requirement of an attestation for board certified applicants is redundant, an unnecessary paperwork burden, and has demonstrated no observable health and safety results.

Preceptor Attestation

- For the alternate pathway, should the NRC amend the language for attestation requirements from the current text that states the individual “has achieved a *level of competency* to function independently” with alternative text such as...?”

AAPM Response: Yes, the phraseology “level of competency” must be removed. AAPM supports the alternative language, “... has received the requisite training and experience in order to fulfill the radiation safety duties required by the licensee.”

Preceptor Attestation

- Should it be the residency program directors representing consensus of residency program faculties, and/or medical institution administrators familiar with the applicant?

AAPM Response: If attestation must be maintained for certain reasons, recognize residency program directors as well as authorized individuals for the same “uses”.

Administrator may be “familiar with an applicant” but unlikely to have the resources needed to assess the individual’s requisite skills to function independently.

Preceptor Attestation

- Added AAPM Comments:

In our support allowing residency program directors to attest for applicants via the alternate pathway, it's important to recognize the applicant may not only be an AU but also AMP or RSO; also the director, regardless of applicant type, may not be authorized in the same uses.

Background on Ritenour (AAPM) Petition

AAPM Petition for Rulemaking

- Filed September 10, 2006
- Noticed in Federal Register November 6, 2006 (71 FR 64168)
- 60-day Comment Period resulted in 166 comments submitted – overwhelming majority requested granting of Petition
- NRC Issued decision in the May 14, 2008 Federal Register (73FR27773) recognized validity of petition but “NRC will attempt to develop a technical basis to support a rulemaking”.

AAPM Petition for Rulemaking

- 10 CFR § 35.57, *Training for experienced Radiation Safety Officer, teletherapy or medical physicist, authorized medical physicist..*, be amended to recognize medical physicists certified by either the ABR or the ABMP on or before October 24, 2005 as grandfathered for the modalities that they practiced as of October 24, 2005. This change should be independent of whether or not a medical physicist was named on an NRC or an Agreement State license as of October 24, 2005.

AAPM Petition for Rulemaking

- Secondly, 10 CFR §35.57 be amended to recognize all diplomates that were certified by the named boards in Subpart J for RSO who have relevant timely work experience even if they have not been formally named as a RSO (either as an “Assistant or Associate RSO”). These diplomates need to be grandfathered as an RSO by virtue of certification providing the appropriate preceptor statement is submitted.

Issues NRC Created With Effective Dates for Board Recognition

- Anyone certified prior to the effective date listed for recognition of the board process must go through the alternate pathway if not already on a license.
- Impacts medical physicists for both RSO and AMP status.
- AMP is problematic because it did not exist in old regulations.

Grandfathering (Ritenour Petition)

- Should only AMPs and RSOs be grandfathered per the petition request?

AAPM Response: No – while the AAPM cannot speak for other professional organizations, it would strongly support grandfathering, in addition to AMPs and RSOs, Authorized Users (AU) & Authorized Nuclear Pharmacists (ANP) regardless of their year of certification who have been adversely affected by this regulation.

Grandfathering (Ritenour Petition)

- Should the NRC recognize all individuals certified by boards that had been listed in NRC's regulations, and who had not been named on an NRC or Agreement State license or permit prior to October 25, 2005?

AAPM Response: Yes. The NRC has forced individuals to seek approval via the time-consuming & paper burden of the alternate pathway simply because either not named on a license or time of board certification – neither has been shown to be any health & safety issue.

Grandfathering (Ritenour Petition)

- If the NRC adopts the ACMUI recommendation to remove attestation requirements for all board certified individuals, how should the NRC proceed with the grandfathering under the Ritenour petition?

AAPM Response: These are two separate issues. The petition is to recognize boards prior to 10/25/05 regardless if an attestation is required or not. It is a grievous misconception that removal of the attestation requirement renders the petition request resolved.

Grandfathering (Ritenour Petition)

- Should the NRC require preceptor attestations for grandfathering for all individuals or no individuals under 10 CFR 35.57, or for only RSOs per the petition request?

AAPM Response: No preceptor attestation should be required for any grandfathering. Critical for NRC to remedy a situation where qualified AMP, RSO, AU have not been recognized because of the year of certification.

Grandfathering (Ritenour Petition)

- Should the NRC require some other means other than an attestation to establish an acceptable record of performance?

AAPM Response:

The AAPM is opposed to any added methods or documentation. No other less burdensome means have been suggested since the preceptor attestation requirement was vetted in the original rulemaking process.

Questions for Further Discussion

- *The NRC is only agency that evaluates the board processes of any medical board certification. What are the qualifications of the NRC to “approve board process”?*
- *Does the NRC have any evidence before/after the regulation was effective to demonstrate added safety value of preceptor attestation for board–certified individuals?*