

HOUSE OF REPRESENTATIVES, U.S.
WASHINGTON, D.C.

.....12/23....., 1989.....

Mr. Dennis K. Rathbun

The attached communication is submitted for your consideration, and to ask that the request made therein be complied with, if possible.

If you will advise me of your action in this matter and have the letter returned to me with your reply, I will appreciate it.

Very Truly yours,

Jon Kyl

M.C.

4th - A2

District.

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PDR PRM
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JON KYL
4TH DISTRICT ARIZONA
DEPUTY REPUBLICAN WHIP
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Congress of the United States
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December 23, 1989

Dr. Richard J. Peterson
Associated Radiologists, Ltd.
450 West Fifth Place
Mesa, Arizona 85201

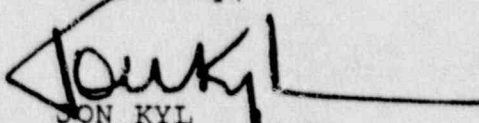
Dear Dr. Peterson:

Thank you for your letter of November 29 expressing your support for the Petition for Rulemaking filed by the American College of Nuclear Physicians and the Society of Nuclear Medicine in regard to the revised 10 CFR 35 regulations.

I am forwarding your letter to Mr. Dennis Rathbun, Director of the Office of Congressional Affairs for the Nuclear Regulatory Commission, for comment. I will apprise you of his reply as soon as it is received in my office.

Thank you again for writing me with your concerns. I will be back in touch with you soon.

Sincerely,


JON KYL
Member of Congress

JK:bjm

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THOMAS E. MCCALL, M.D.
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RICHARD J. PETERSEN, M.D.

November 29, 1989

The Honorable Jon Kyl
4250 East Camelback Road
Phoenix, Arizona 85018

Dear Representative Kyl:

I am writing to express my strong support for the Petition for Rulemaking filed by the American College of Nuclear Physicians and the Society of Nuclear Medicine. I am a practicing Nuclear Medicine physician at Desert Samaritan, Mesa Lutheran and Valley Lutheran hospitals in Mesa, Arizona. I am deeply concerned over the revised 10 CFR 35 regulations (effective April, 1987) governing the medical use of byproduct material as they significantly impact my ability to practice high-quality Nuclear Medicine/Nuclear Pharmacy and are preventing me from providing optimized care to individual patients.

The NRC should recognize that the FDA does allow, and often encourages, other clinical uses of approved drugs, and actively discourages the submission of physician-sponsored IND's that describe new indications for approved drugs. The package insert was never intended to prohibit physicians from deviating from it for other indications; on the contrary, such deviation is necessary for growth in developing new diagnostic and therapeutic procedures. In many cases, manufacturers will never go back to the FDA to revise a package insert to include a new indication because it is not required by the FDA and there is simply no economic incentive to do so.

Currently, the regulatory provisions in Part 35 (35.100, 35.200, 35.300 and 33.17(a)(4)) do not allow practices which are legitimate and legal under FDA regulations and State medicine and pharmacy laws. These regulations therefore inappropriately interfere with the practice of medicine, which directly contradicts the NRC's Medical Policy statement against such interference.

Finally, I would like to point out that highly restrictive NRC regulations will only jeopardize public health and safety by: restricting access to appropriate Nuclear Medicine procedures; exposing patients to higher radiation absorbed doses from alternative legal, but non-optimal, studies; and exposing hospital personnel to higher radiation absorbed doses because of unwarranted, repetitive procedures. The NRC should not strive to construct proscriptive

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regulations to cover all aspects of medicine, nor should it attempt to regulate radiopharmaceutical use. Instead, the NRC should rely on the expertise of the FDA, State Boards of Pharmacy, State Boards of Medical Quality Assurance, the Joint Commission on Accreditation of Healthcare Organizations, radiation safety committees, institutional Q/A review procedures, and most importantly, the professional judgment of physicians and pharmacists who have been well-trained to administer and prepare these materials.

Since the NRC's primary regulatory focus appears to be based on the unsubstantiated assumption that misadministrations, particularly those involving diagnostic radiopharmaceuticals, pose a serious threat to the public health and safety, I strongly urge the NRC to pursue a comprehensive study by a reputable scientific panel, such as the National Academy of Sciences or the NCRP, to assess the radiobiological effects of misadministrations from Nuclear Medicine diagnostic and therapeutic studies. I firmly believe that the results of such a study will demonstrate that the NRC's efforts to impose more and more stringent regulations are unnecessary and not cost-effective in relation to the extremely low health risks of these studies.

In closing, I strongly urge the NRC to adopt the ACNP/SNM Petition for Rulemaking as expeditiously as possible.

Sincerely,

Richard J. Petersen, M.D.
FACNP, FACR

RJP:mc