



VIA EMAIL: james.jarvis@state.co.us

November 26, 2014

Colorado Department of Public Health and Environment (CDPHE)
Radiation Control Program
HMWMD-RM-B2
attn: James Jarvis
4300 Cherry Creek Drive South
Denver, CO 80246

**RE: Rules and Regulations Pertaining to Radiation Control – 6 CCR 1007-1 Part 12,
Fees for Radiation Control Services**

To Whom It May Concern:

The Colorado Dental Association (CDA) represents over 80% of Colorado's licensed dentists with a membership of over 3,000 dental professionals. The CDA is dedicated to improving the quality, availability, affordability and utilization of oral healthcare services.

The CDA would like to thank CDPHE's Radiation Control Program for reaching out to stakeholders, including the dental profession, during its rule revision process and for allowing the CDA to comment on proposed revisions to the fees associated with radiation services. These comments reflect input from CDA members who utilize varying forms of x-ray technology both for preventative screening and diagnostic purposes in dental offices. The CDA has also encouraged our members to submit comments directly to the Department. We are confident that such input will result in productive ideas and improved standards.

On behalf of the dental profession, the CDA wishes to address a few concerns with the proposed changes to fees for radiation control services.

Under the proposed revisions to Rule 12, the Department would raise fees related to radiation machines. The current \$50 fee for radiation machine certification labels would increase to \$60, and a new annual radiation machine facility registration fee of \$50 would be added. The average dental office in Colorado appears to have about four x-ray machines. Dental offices primarily utilize dental intraoral or panoramic machines, which are inspected (and require certification labels) every 3 years. (Some dental offices use hand held dental units or dental cone beam units that are inspected every year, but this equipment is less common than dental intraoral and panoramic units.) In terms of financial impact, the proposed increase would result in fees nearly doubling for most dental offices. Using the assumption of four dental x-ray units inspected on a three year basis, current fees would be \$200 paid every 3 years (\$50 certification label fee * 4

machines) or, when averaged, approximately \$67 per year. Under the new fee structure, fees would increase to \$390 over the same 3 year time period (\$60 certification label fee * 4 machines (every 3 years) + \$50 registration fee * 3 years) or, when averaged, \$130 per year. While the total dollar amount of the increase may not seem exorbitant to many, this increase represents a 50% increase in fees for the average dental office, in an environment where fees and the cost of doing business continue to increase in all domains. This far exceeds the 18-25% increase highlighted in the rulemaking summary documents (and it also exceeds the Consumer Price Index increase for this period of time, which appears to be around 30%).

While we recognize that costs to the Department have increased in the 10+ years since fees for radiation machines were last reviewed, the CDA is concerned that the dental profession may be bearing a disproportionate share of the fee increase, especially given the proposed model of an annual registration fee. The registration fee is currently structured to be identical at \$50 per facility, no matter what the size of facility, revenue of the facility, or the complexity of the equipment housed in the facility. In discussion of the fee increase, the Department discloses that the registration fee is designed to try to equalize the fee increase for larger facilities like hospitals. However, larger facilities have larger gross receipts and budgets, and the impact of a \$50 or \$100 annual registration is far less to these facilities in proportion to gross receipts than it is to the average dental office. While the total dollar impact to larger facilities may be slightly higher under the annual registration fee model, the percentage change is substantially smaller. For example, if a hospital had a dozen machines inspected on a yearly basis, the proposed changes would raise fees from \$600 to \$770 per year, \$170 per year or a 28% increase. A larger hospital with two dozen machines would see fees increase from \$1200 to \$1490, \$290 per year or a 24% increase.

In addition, while we recognize that dental machines comprise a large part of the total number of radioactive machines regulated by the Department, the complexity and public safety risks associated with most dental equipment is far less than much of the other equipment regulated by the Department. We have requested information from the Department about the administrative costs associated with the dental x-ray program, including costs of processing applications, enforcement actions, and any other administrative expenses. As of the date of submission of these comments, we had not received this data. While the dental profession must cover the total costs attributable to the administration and enforcement of dental machines, dental offices should not underwrite more than their share of program expenses under the proposed fee revisions. In numbers provided in Department presentations, dental offices would appear to contribute \$163,063 (includes both the certification label fee increase and radiation machine facility registration fee) towards the Department's total estimated \$666,100 increase for fiscal year 2016. Per these estimates, dentistry would fund 25% of total fee increase for the program that regulates both radiation machines and radioactive materials. While there are a substantial number of dental machines and related administrative processing, we also understand that there have been little to no formal enforcement actions taken related to dental machines. It seems that higher risk equipment would drive greater program expense, and that operators of this equipment should bear the appropriate share of administrative costs.

Given these concerns, the CDA would ask that the Department review the program costs attributable to dental offices and ensure that fees charged to the dental profession are aligned

with these program expenses. We would also ask that the fee structure be reviewed to bring the total fee increase for dental offices into better alignment with the Consumer Price Index and the percentage increase seen by larger facilities (closer to 30%). To accomplish these objectives, perhaps the registration fee could be tiered according to gross receipts, similar to the small entity fee structure for radioactive materials licenses where entities with lesser gross annual receipts pay a lesser annual fee. Alternatively, the facility registration could be tiered based on complexity of equipment, or the certification label fee increase could be tiered based on complexity of the equipment (i.e., risk to the public).

While we share the Department's goal of ensuring public protection and safety related to radiation machines, ensuring access to important diagnostic tools and ultimately dental services in an era of rising costs for small businesses is also a critical part of the CDA's mission. The dental profession is continually being asked to do more with less, and even seemingly small increases, when aggregated with the cost increases seen in nearly all other business domains, can be extremely challenging. As an indication of increasing costs in dentistry, from 2001 to 2011, the Consumer Price Index increased 27%. In this same time period, the cost of dental services increased 51.7%, exceeding all medical care and the general market. This reflects a large increase in the cost of doing business for dentistry, and the common mantra of "just pass the cost along to the consumer" may not be realistic, as it is unclear how much continued cost increase the market will continue to bear in relation to dental services.

The CDA appreciates the Department's proactive approach in working to ensure appropriate regulation for radiation machines. We hope that our comments are productive and beneficial and will help the Department further improve its standards. We appreciate your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "GH", is written over a light blue horizontal line.

Greg Hill, JD

Executive Director, Colorado Dental Association