AAPM Licensure Update

Bob Pizzutiello, FACR, FAAPM, FACMP
Chair
AAPM Joint Medical Physics Licensure Subcommittee (JMPLSC)

AAPM New England Chapter Meeting
June 14, 2012
Agenda

• Recent Historical Background
• AAPM and JMPLSC
• Qualified Medical Physics (QMP) Registry
• State Updates
• Open Discussion
AAPM Vision & Mission Statements*

• Vision:
  – The American Association of Physicists in Medicine is the premier organization in medical physics, a broadly-based scientific and professional discipline encompassing physics principles and applications in biology and medicine.

• Mission:
  – The mission of the American Association of Physicists in Medicine is to advance the science, education and professional practice of medical physics.

*http://www.aapm.org/org/objectives.asp - KS
Goals* of the AAPM

• Promote the highest quality medical physics services for patients.
• Encourage research and development to advance the discipline.
• Disseminate scientific and technical information in the discipline.
• Foster the education and professional development of medical physicists.
• Support the medical physics education of physicians and other medical professionals.
• Promote standards for the practice of medical physics.
• Govern and manage the Association in an effective, efficient, and fiscally responsible manner.

* http://www.aapm.org/org/objectives.asp - KS
Why Licensure?

• Our profession has an obligation to regulate itself and the practice of medical physics if it is truly to serve the public interest.

• The public deserves the benefit of the best our profession can offer.

• The citizens need to be protected from unqualified or unsupervised individuals who claim the ability to perform medical physics services.
Why Licensure? (continued)

• If medical physicists fail to restrain such individuals, the quality of service offered by the profession will likely be reduced. This would erode public confidence in these services.

• Establishes a mandatory legal requirement that ensures minimal education and training standards to practice.

• Defines the profession of medical physics.

• Creates penalties for practicing without a license.

• Protects the public from improper practice of medical physics.
Why Licensure? (continued)

- Protects the medical physicist with due process of law.
- Applies to licensed QMP as well as grandfathered licensed medical physicists.
- Without licensure, there will always be Grandfathered people practicing, but without benefits of due process of law and any additional requirements to keep the license current.
- Licensure protects medical physicist jobs in a tightening fiscal healthcare environment.
Increased media focus

The New York Times

Health

THE RADIATION BOOM
Radiation Offers New Cures, and Ways to Do Harm

By WALT BOGDANICH
Published: January 23, 2010

As Scott Jerome-Parks lay dying, he clung to this wish: that his fatal radiation overdose — which left him deaf, struggling to see, unable to swallow, burned, with his teeth falling out, with ulcers in his mouth and throat, nauseated, in severe pain and finally unable to breathe — be studied and talked about publicly so that others might not have to live his nightmare.

Sensing death was near, Mr. Jerome-Parks summoned his family for a final
Increased media focus

Inadequate regulation puts patients at risk

By Editorial Board

It’s the kind of thing that never should happen but did. Seventy-six patients treated for head and neck tumors. On average, they got 50 percent more radiation than had been prescribed.

The problems at CoxHealth began in 2004 and continued unnoticed until September. Sophisticated equipment. There was no independent check of the calibration, and no state or federal regulation requires it. And there are who administer the treatment to be certified.

That certification is an option instead of a requirement “is really silly,” said Dr. Eric Klein, a professor of radiatio

St Louis Today:

Rural Missouri
Congressional focus

Chairman Pallone, Ranking Member and Members of the Committee, good morning and thank you for the opportunity to come before you to discuss issues in the field of radiation oncology.

It is my pleasure to be here today to speak on behalf of the American Association of Physicists in Medicine, known more commonly as AAPM. "AAPM is an international organization of physicians and scientists dedicated to advancing the science and practice of medical physics. The Association was founded in 1958, ..."
Congressional focus

RADIOACTIVE ROULETTE:

How the Nuclear Regulatory Commission’s Cancer Patient Radiation Rules Gamble with Public Health and Safety

A report by the Staff of Edward J. Markey (D-MA)
Chairman, Subcommittee on Energy and Environment
Energy and Commerce Committee
U.S. House of Representatives
March 18, 2010
CT brain perfusion overexposures

The Center for Devices and Radiological Health (CDRH) issued an alert in regards to high dose levels used in head CT perfusion studies at a hospital in Southern California(1). Over 200 patients apparently received excess radiation during these time-lapse (repeated) CT studies of the head. Subsequently, similar incidents have been identified at two other hospitals in Southern California and potentially in other locations as well. Early investigations of these incidents revealed a misunderstanding of some of the automated dose selection features on the scanner, and this led to an estimated 8 fold increase in radiation to the patient. This was discovered when a number of the patients experienced some temporary hair loss (epilation) and skin reddening (erythema).

This incident apparently resulted from a lack of adequate training of CT technologists, and perhaps an overreliance on the use of preselected CT protocols. There is no
Philadelphia VA Medical Center's Terminated Cancer Treatment Program

UNITED STATES SENATE
COMMITTEE OF VETERANS' AFFAIRS

Field Hearing on Philadelphia VA Terminated Cancer Treatment Program

June 29, 2009, 10:00 AM

Philadelphia VA Medical Center

Click Here to Listen to Part 1 of the Hearing

Click Here to Listen to Part 2 of the Hearing
The New York Times

Radiation Boom

Articles in the 'Radiation Boom' series by Walt Bogdanich examine issues arising from the increasing use of medical radiation and the new technologies that deliver it.

March 5, 2011
February 28, 2011
December 29, 2010
November 22, 2010
August 1, 2010
February 25, 2010
January 27, 2010
January 24, 2010
December 8, 2009
October 16, 2009
June 30, 2009
June 21, 2009

With follow-up articles in countless local news media
Increased regulation is likely.

February 10, 2010

F.D.A. to Increase Oversight of Medical Radiation

By WALT BOGDANICH and REBECCA R. RUIZ

The federal Food and Drug Administration said Tuesday that it would take steps to more stringently regulate three of the most potent forms of medical radiation, including increasingly popular CT scans, some of which deliver the radiation equivalent of 400 chest X-rays.

With the announcement, the F.D.A. puts its regulatory muscle behind a growing movement to make life-saving medical radiation — both diagnostic and therapeutic — safer.

Last week, the leading radiation oncology association called for enhanced safety measures. And a Congressional committee was set to hear testimony Wednesday on the weak oversight of medical radiation, but the hearing was canceled because of bad weather.
“Concern for man and his fate must always form the chief interest of all technical endeavors. Never forget this in the midst of your diagrams and equations.”

Albert Einstein
History of Licensure and AAPM

- On November 1, 1992, the Initial AAPM Policy Supporting Licensure (PP-2A) was passed by the AAPM Board of Directors (BOD).

- In 2007 after careful consideration, the AAPM BOD approved the current licensure effort and committed funding.

- On July 31, 2008, the AAPM BOD reaffirmed the Policy Supporting Licensure (PP-2D).
The AAPM and the ACMP* strongly support licensure for practitioners of Medical Physics.

Licensure or formal registration for Medical Physicists is in the public interest.

Under current law, Medical Physics services in imaging and therapy without any formal minimum training and education standards are not compulsory in all jurisdictions allowing individuals to provide education.

*NOTE: When adopted, the American College of Medical Physics (ACMP) existed. ACMP ceased to exist 12/31/2011.
PP - 2D*: Licensure and The Medical Physicist’s Role in the Practice of Medicine

- Physicians, health care administrators, regulators and the public have no clear guidelines for judging the qualifications or abilities of a Medical Physicist.

- Other than the civil courts, the public has no redress to deal with issues such as fraud, substance abuse, malpractice, or unethical behavior that negatively impact patient care and public safety.

Licensure & the AAPM

- Subcommittee formed to promote minimum practice standards through licensure or registration regulations.
- The AAPM Board has approved significant funding to support this effort (staff support, IT support, lobbying).
The 2011 Licensure Retreat

• Name and Charge change
  – When formed, the Joint Medical Physics Licensure Subcommittee (JMPLSC) was a joint committee of AAPM and ACMP.
  – ACMP ceased to exist December 31, 2011.
  – New name: Medical Physics Licensure and Regulatory Recognition Subcommittee
  – The AAPM Board of Directors directed the subcommittee to focus on a regulatory approach in addition to licensure by legislation.
Medical Physics Licensure and Regulatory Recognition Subcommittee

• Charge:
  – To promote the protection of the public through the recognition of the profession of medical physics by legislation or regulation.

• Pathways to be addressed:
  – Recognition through licensure
  – Recognition through regulation
  – Annually prepare status of subcommittee’s activities.

*Updated 11/4/11
Recognition of the Profession through Licensure by Legislation

• Support the formation and activities of state committee(s) focused on professional licensure

• Provide model legislation

• Provide consultation on regulatory language to implement professional licensure
Recognition of the Profession through Regulation

- Support the formation and activities of state committee focused on the regulatory approach

- Provide model regulation

- Provide consultation on regulatory language to implement professional licensure

- Collaborate with the AAPM Conference of Radiation Control Program Directors (CRCPD) Subcommittee
Model Licensure Legislation
Sections of the Document

1. Purpose and scope.
2. Definitions.
3. Definition of "practice of medical physics".
4. Use of the title "licensed medical physicist".
5. <State board> for medical physics.
6. Requirements and procedures for professional licensure.
7. Provisional license.
8. Exemptions.
9. Licensure without examination.
10. Continuing education requirements.
11. License term and renewal.
12. Enforcement.
Current Licensure States

- NY, FL, TX, HI
- NY law:

Education Law

Article 168, Medical Physics Practice

§ 8700. Introduction.

This article applies to the profession of medical physics. The general provisions for all apply to this article.
NY Licensure

There is an 18-month phase-in period, then Board certification required.

§ 3705. Requirements and procedures for professional licensure.

To qualify for a license as a professional medical physicist, an applicant shall fulfill the following requirements:

1. Application: file an application with the department;
2. Education: have received an education including a master's or doctoral degree from an accredited college or university in the commissioner's regulations. Such person shall have completed such courses of instruction as are deemed necessary by the medical physics specialty in which the applicant has applied for a license;
3. Experience: have experience in his or her medical physics specialty satisfactory to the board and in accordance with the commissioner's regulations;
4. Examination: pass an examination in his or her medical specialty satisfactory to the board and in accordance with the commissioner's regulations. An examination requirement may be waived by the board on recommendation of the commissioner for certain applicants with particular medical physicist;
5. Age: be at least twenty-one years of age.
Licensure

- Without licensure, there will always (at least for a while) be Grandfathered people practicing, but without benefits of due process of law and any additional requirements to assure their *practice* is proper.

- Licensure defines the profession of medical physics.

- Critical decisions made by **Board** of Medical Physicists

- Licensure is an investment that benefits the public and the entire profession for the future.
Professional Misconduct

1. Practicing the profession with negligence on more than one occasion;

2. Practicing the profession with gross negligence on a particular occasion;

3. Practicing the profession with incompetence on more than one occasion;

4. Practicing the profession with gross incompetence;

5. Practicing the profession while impaired by alcohol, drugs, physical disability, or mental disability;
6. Being a habitual abuser of alcohol, or being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects, except for a licensee who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the licensee's ability to practice;
Professional Misconduct (continued)

7. Permitting, aiding or abetting an unlicensed person to perform activities requiring a license;

8. Revealing of personally identifiable facts, data, or information obtained in a professional capacity without the prior consent of the patient, except as authorized or required by law; and

9. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, except in an emergency situation where a person's life or health is in danger.
ABR Revocation/Suspension of Certification

• ABR can suspend or revoke a certificate or placing a Diplomate or candidate on probation for a fixed or indefinite time or some combination of these for several reasons.
  – All of the reasons except one have to do with falsification of information to the ABR such as the certificate was issued contrary to or in violation of any rule or regulation of the Corporation; substantial misstatement or omission of a material fact to the Corporation in an application or in any other information submitted to the Corporation; violation of the rules and regulations relating to the Written Qualifying, Oral and Maintenance of Certification Examinations engaging in any conduct that materially disrupts any examination or that could reasonably be interpreted as threatening or abusive toward any examinee, proctor or staff.
ABR Revocation/Suspension of Certification

• The one exception is:
  – any license of the person to practice is not, or ceases to be, a valid and unrestricted license to practice within the meaning set forth in the Rules and Regulations of the American Board of Radiology. In the event that a Diplomate’s license to practice is suspended, revoked or restricted in any state in which the Diplomate practices, holds a license or has held a license, the Diplomate’s board certification may be revoked or suspended.

From ABR By-Laws (05/30/2008) - Article X: Revocation and Suspension
# Licensure vs. Board Certification

<table>
<thead>
<tr>
<th>Licensure</th>
<th>Board Certification</th>
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</thead>
<tbody>
<tr>
<td>1. Protects public from improper practice</td>
<td>1. Exam based, not practice-based</td>
</tr>
<tr>
<td>2. Protects the medical physicist with due process of law</td>
<td>2. Cannot be revoked except for fraud or revocation of a license</td>
</tr>
<tr>
<td>4. Legally defines the profession</td>
<td>4. No impact on Grandfathered medical physicists</td>
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**Licensure vs. Registration**

<table>
<thead>
<tr>
<th>Licensure</th>
<th>Registry</th>
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<tbody>
<tr>
<td>1. A technical definition: a license is a government grant of specific legal rights and obligations to the licensee.</td>
<td>1. It is simply a list.</td>
</tr>
<tr>
<td>2. Once a license has been granted, it cannot be restricted or taken away without notice and a hearing, with all the attendant legal rights and appeals.</td>
<td>2. Confers no rights although it may impose certain obligations as a precondition to being on that list and as such, registration is not property protected by either state or federal Constitutional guarantees.</td>
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<tr>
<td>3. If the State proposes to take some action against a licensee, the burden of proof rests with the State.</td>
<td>3. The burden of proof is on the registrant to prove its case if someone makes a claim against the individual.</td>
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<td>4. Since a license grants a right to do something, it ipso facto limits or prohibits the ability of others to do that same activity.</td>
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Registration

• Twenty states, with more drafting new regulations.

• Many follow AAPM QMP definition.

• Wide variation in professional standards and enforcement.
State Regulations

• Professional Licensure or registration

• More states are implementing strong definitions of a QMP, with Board certification the only pathway.

• Working with CRCPD to incorporate QMP definition in the Suggested State Regulations
State Regulations

Link: http://www.aapm.org/government_affairs/licensure/default.asp - KS
For the purpose of providing clinical professional services, a Qualified Medical Physicist (QMP) is an individual who is competent to independently provide clinical professional services in one or more of the subfields of medical physics. The subfields of medical physics are:

- Therapeutic Medical Physics
- Diagnostic Medical Physics
- Nuclear Medical Physics
- Medical Health Physics

The scope of practice of each subfield is defined in the AAPM Professional Policy 17 "Scope of Practice of Clinical Medical Physics".

Credentials of a QMP According to PP-1

• A Qualified Medical Physicist meets each of the following credentials:

  – Has earned a master's or doctoral degree in physics, medical physics, biophysics, radiological physics, medical health physics, or equivalent disciplines from an accredited college or university; and

  – Has been granted certification in the specific subfield(s) of medical physics with its associated medical health physics aspects by an appropriate national certifying body and abides by the certifying body's requirements for continuing education.
Medical Physics

Diagnostic

Therapeutic

Medical Health Physics

Nuclear Medicine

AAPM
The QMP Registry

• AAPM has contracted with the CRCPD to establish and maintain a registry of Qualified Medical Physicists
• CRCPD does not independently verify medical physics qualifications
• Direct upload of information from certifying boards
Conference of Radiation Control Program Directors (CRCPD) Registry of Qualified Medical Physicists

• **Purpose:**
  – To allow state regulators’ to verify the qualification of medical physicist working in their state.
  – The registry provides the solicitor with one stop to look up physicist who has passed one of five participating boards.
    • American Board of Radiology (ABR)
    • American Board of Medical Physics (ABMP)
    • Canadian College of Physicists in Medicine (CCMP)
    • American Board of Science in Nuclear Medicine (ABSNM)
    • American Board of Health Physics (ABHP)
  – Prior to the registry, state and federal regulators depended on copies of board certification, now with a few entries the same regulator can independently valid the credential of the medical physicist for all five boards.
Isn’t the QMP Registry enough? What the Registry does:

- The QMP Registry is not licensure and does not meet all the components of licensure (accountability); however, it is a step in a positive direction towards improving healthcare.

  - The QMP Registry establishes a list of medical physicists who have achieved board certification.

  - ABR, ABMP, ABHP, ABSNM and CCPM
## National QMP Registry

Last Name: Lee  
Search

Show Advanced Search

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<thead>
<tr>
<th>First Name</th>
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Isn’t the QMP Registry enough?
What the Registry does:

- Public would be served by having those who attained this level of expertise be required through by state regulations perform specific services.

- State regulatory control agencies, accrediting bodies, etc. could easily identify those who have met QMP definition.
Isn’t the QMP Registry enough?
What the Registry does not do:

• A National Registry alone will not be sufficient in providing consistent minimum standards of practice nation-wide.
  – Need states to adopt regulations requiring that all clinical medical physicists are listed on the National Registry.
• A registry listing is not amenable to peer-reviewed enforcement because any infractions will be reviewed by the regulatory community and not necessarily medical physicists.
• Private organizations (certification boards) not constitutionally subject to the “due process” requirement.
Isn’t the QMP Registry enough? What the Registry does not do:

REMINDER:
• The effect of licensure on the profession is **consistent minimum standards** for the profession on a state-by-state basis.

• Licensure **establishes the authority to enforce the practices of the profession**, by a board of professionals. A license can be restricted or rescinded for misconduct through due process of law.
State Updates
MA - Background

• The licensure legislation was introduced in mid-June 2011
  - HB 3515 (Sponsor Rep. Carlos Basile)

• The MA State Committee reviewed the bill language at the end of July 2011

• There was a series of meetings in mid-October 2011 with MA legislators. The size of the Board (8 members) was raised as there is some concern about an even number.
  – The MA State Committee discussed adding an additional “floating” medical physicists position to the board to create an odd number and majority of medical physicists representation
• Dan Delaney, Director of Legislative Policy, said the Massachusetts Department of Public Health was generally supportive of the licensure bill.

• Hearing in the Joint Committee of Public Health was held on October 25, 2011.

  – Testifying were: Per Halvorsen, Martin Fraser and Fred Fahey
  – Joint Committee Chairman Sanchez and Chairwoman Fargo asked multiple questions regarding the practice of medical physics and the need for licensure of the profession.
MA – Current Status

• On March 20, 2012, the bill received a **FAVORABLE** Report out of the Joint Committee.

• MA Legislative Counsel redrafted the bill with technical corrections and the bill was renumbered in May 2012.

• **CURRENT BILL: HB 4097**
MA - HB 4097 Text Changes

- Scope and Purpose language removed
- Sections were rearranged
- Added language regarding Board terms of service
- Definitions were alphabetized and edited for consistency
MA - HB 4097 Text Changes (continued)

- Added definition of “Board”
- Added language regarding duties and function of the Board
- Added section on the creation of a public registry of the licensed medical physicists
- Added general application procedural language
- Removed “fee setting” language
MA - HB 4097 Text Changes (continued)

• Added time-frame for grandfathering period (18 months after enactment date)

• Removed “license term and renewal” section

• Modification of template enforcement clause but template was extremely detailed and the modifications bring the enforcement clause in alignment with other license enforcement action clauses in MA
MA - HB 4097 Text Changes (continued)

- Added articulation of possible specific enforcement actions and applicability of the law
- Added authorization language for the licensing board to do its duty
- Added language to ensure medical physicists would be able to continue to work while the Board promulgated the regulation
MA: Next Steps by Legislature

- MA Public Health Finance Committee currently reviewing HB 4097
  - Anticipate that will pass out of Finance Committee without hearing and Chair approval by July 2012

- Anticipate the bill will move to the full House for consideration and vote in mid-fall
MA: Next Steps by MA State Committee

• MA State Committee currently reviewing changes in HB 4097

• Suggested amendments to be drafted over summer

• Anticipate the following changes
  – Change to board membership to a majority of medical physicists
  – Definition of Qualified Medical Physicist
MA: Next Steps Meeting with MA Department of Public Health Staff

• To be scheduled late summer/early fall

• Purpose:
  – To review HB 4097 to identify any areas of concern
  – To identify areas that may have regulatory implications
  – Q&A session
MA: Next Steps by MA members

• Need to familiarize yourself with HB 4097 language

• Questions or issues should be sent to Martin Fraser, MA State Committee Chair by end of August

• If necessary, FAQs to be developed in response to concerns raised by MA members

• Respond to “Calls-to-Action to MA members”
  • Calls and emails to state legislators demonstrating support of HB 4097
PA Current Status

• In mid-May 2011, the PA licensure bill was introduced and given a bill number – HB 1559 (Sponsor Rep. Harry Readshaw (D)).

• In late June 2011, AAPM PA members and Mr. Bevan met with the Department of State representatives to discuss the Sunrise Evaluation.

• In early September 2011, based on the results of that meeting an addendum to the Sunrise Evaluation was submitted.
PA Current Status (continued)

• In November 2011, the Department of State issued their findings and found that at this time there was no need for a separate licensure board for the medical physics profession.

• Based upon this decision, the PA licensure bill will not move forward this legislative session and likely will not have enough support to pass until/if the Administration changes from Republican leadership.
PA Current Status (continued)

• The Department of State cited the following reasons for their decision:
  – The current protection provided by the PA DEP regulations is "extensive."
  – The threat to public safety for unlicensed medical physicists is not substantial and therefore, the Governor does not want to add another layer of "regulatory authority over the profession".
  – The potential cost to medical physicists for licensure fees would be $1,000 biennially which would increase cost of health care services to the public.
  – The committee recognized a need for improvement in the rules surrounding the use of medical radiation and as the DEP will be updating those regulations "in the near future", we have been encouraged to work with them to offer suggestions.
PA Current Status (continued)

- The PA State Committee and Mr. Bevan, AAPM lobbyist will remain active within PA to the extent of maintaining communication with established contacts.
OH Current Status

- There was a positive in-person meeting with Rep. Wachtmann regarding sponsorship of the OH version of the licensure bill.
- Rep. Wachtmann supplied the model bill to the OH Department of Health, Bureau of Radiation Protection (BRP) with a request for comments
  - In early-October, OH State Committee member Kerry Krugh received the BRP’s response
- The OH State Committee drafted a response to Rep. Wachtmann and the OH BRP
- There was no further rebuttal and the bill could still be introduced this legislative session.
IN Current Status

• Much of the effort in the following states has been provided by chapter representatives
  – Collaborative efforts have been initiated between Ohio River Valley and the Midwest Chapters regarding appropriate paths toward licensure
  – Communication is ongoing
IN Current Status (continued)

• Meeting in mid-September 2011 with IN Department of Health, Director of Medical Radiology Service David Nauth
  – IN had an Advisory Committee, which was inactive for years, and consequently was decommissioned in 2010.
  – Requested that the Advisory Committee be re-commissioned and that the current regulations be updated to which Mr. Nauth agreed and promised to look into both ideas.
• While there was verbal agreement to consider the recommendations, to date there has not been forward progress.
KY Current Status

- The "Kentucky Radiation in Medicine Advisory Committee" began in August 2011, under the supervision of KY State Office of the Commissioner.
  - The committee roster formed included QMPs of all subspecialties and MDs of all subspecialties.
KY Current Status (continued)

• Commissioner Hacker retried and a new Commissioner was appointed, a CHP (non-ABHP), Matthew McKinley.

• It is not expected that the committee will be active anytime soon.
  – There has been some question at the Commissioner level on the positions currently listed on the Advisory Committee roster and it is anticipated that several other related professions will be asked to serve such as technologists.
Summary

• Recent Historical Background
• AAPM and JMPLSC
• QMP Registry
• State Updates
• Open Discussion
• Final Thought
“The real question is whether we want to define our profession, or leave it to some other group to do that for us.”

– David Lee Goff, Austin Texas 11/13/09