

McCloskey, Bridin

From: Peter Crane <peter46crane@gmail.com>
Sent: Friday, May 15, 2020 8:28 PM
To: Peter Crane
Subject: [External_Sender] Fwd: So what are you doing these days?

----- Forwarded message -----

From: **Peter Crane** <peter46crane@gmail.com>
Date: Fri, May 15, 2020 at 4:44 PM
Subject: Re: So what are you doing these days?
To: Dennis K Rathbun <dennisk.rathbun@gmail.com>

Just sent this to Facebook.



<https://www.youtube.com/watch?v=VOFgv24g2Js>

Until a couple of days ago, I thought that I was beyond being surprised by any new rascality from the Nuclear Regulatory Commission regarding medical isotopes. Little did I know! The relevance of the Bob and Ray clip will become clearer further on.

I've described before the petition for rulemaking that I filed last November, with around 50 co-signatories, on behalf of Sensible Controls on Administrations of Radioiodine (SCAR). It asked that the U.S. be brought back into synch with international practice, which is normally to hospitalize patients given high doses of radioactive iodine 131 (I-131), because of the risk they pose to others, especially children. Among other things, the petition pointed to the fact that the NRC was in conflict with expert guidance from the Centers for Disease Control on the risks posed by inhaled and ingested radioactive iodine. The petition was only about I-131, the most dangerous of all radioactive isotopes. The NRC had deregulated it in 1997, on the advice of an eccentric doctor who thought that I-131 was not carcinogenic, that radiation was good for you, and that a nuclear accident might have beneficial health effects.

The petition was filed, of course, before the coronavirus crisis.

There were strong signs already several months ago that the NRC was going to trample this petition into the ground. It wasn't going to hear from the CDC, or from the I-131 patients, and quite understandably, since it couldn't afford to.

In January, the Commissioners had their first meeting in about ten years on the subject of the release of radioactive patients. But the NRC's Patients' Rights Advocate was not invited to take part – perhaps because as an I-131 patient himself, he knew too much about the subject. The only patient invited – an admirable individual, I don't mean to disparage him – was someone who had been treated with a different isotope. The NRC staff member with greatest knowledge in the area was also not invited, probably because she was seen as unlikely to parrot the company line. Needless to say, no one from the CDC was invited.

At the meeting, Commissioner Jeff Baran tried valiantly to get answers to some pertinent questions, but he kept being met with non-responsive replies that simply repeated, like a mantra, that the existing regulations were fine as is.

On March 10, I got a call from a responsible public servant at the NRC asking me whether I knew that the NRC's Advisory Committee on the Medical Uses of Isotopes (ACMUI) was going to be having a meeting the next day. I knew nothing about it. According to the ACMUI, I had received email notification of it in January. I never saw it, but perhaps it got lost in my spam filter. But the key point is that the document under discussion in the March 11 meeting was a document dated February 24 that I had never seen.

Can an agency committee, consistent with the law, give adequate public notice in January of a meeting in March to discuss a document that isn't issued until late February and that nobody is likely to know about? It's not as though the January notice had referred to the fact that the February document was in preparation. No, this was a stealth meeting on a stealth document. I would be curious to know whether any lawyer ever looked at this. I strongly doubt it.

I could have taken part in the March 11 meeting, although it was far too late for me to submit a written statement. I elected not to take part. At the time, Seattle, where I live, was already wrestling with the coronavirus pandemic: the first school closing orders went out on March 11. I would have thought it indecent to ask friends to trouble themselves with something as minor as an ACMUI meeting when a medical tsunami was bearing down on us all. Instead I spent the day on the phone to friends in the East, which had been slow to grasp the magnitude of the crisis, warning them of what was about to hit them.

I did urge a postponement of the meeting, but that was rejected out of hand. Afterwards, on March 16, I wrote to the Commission, in very polite terms, asking that all work on SCAR's petition be suspended. (The letter is pasted in below.) The principal reason I gave was that in view of the likely demand for hospital beds, this was no time to be altering the status quo with respect to hospitalization of I-131 patients. A second reason was that I did not want NRC personnel taking risks by coming to work to deal with non-urgent matters. (I did not realize that the NRC had already, very wisely, instituted working from home.)

It might seem too obvious to merit discussion that when a petitioner writes to an agency to say that owing to a pandemic, circumstances have changed, and work on a petition should be halted, that request will be granted as a matter of course. But the NRC staff, it seems, is hellbent on burying this petition with a stake through its heart, and no mere pandemic, much less a request from a despised petitioner, will divert it from its purpose.

So the NRC's response, dated April 3, 2020, and sent to the rulemaking docket on April 13, 2020, was that the NRC already knew all it needed to know about the petition, and was therefore not taking public comment. Did it mention the request to withhold action on the petition? Of course not.

In the words of one of the participants in the Bob and Ray Spelling Bee, "What kind of badger game is this?"

In my position, you can laugh or you can cry or you can fume in a situation like this. When I talked to the relevant NRC staffer this week, I couldn't stop laughing.

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March 16, 2020

Chairman Kristine L. Svinicki
Commissioner Jeff Baran
Commissioner Annie Caputo
Commissioner David A. Wright
Margaret Doane, Executive Director for Operations
Marian Zobler, General Counsel
Annette Vietti-Cook, Secretary

Dear Chairman Svinicki, Commissioners, Ms. Doane, Ms. Zobler, and Ms. Vietti-Cook:

Given the national health crisis that we are in, I would like to ask that all work on my petition for rulemaking on the patient release issue be put on temporary hold. In the first place, at a time when hospital capacity promises to be stretched to the breaking point, we need to preserve the status quo for the time being. I would much rather have the employees of the NRC, some of whom are personal friends, safely at home with their

loved ones, in self-quarantine, than coming to their offices to work on anything of less than the most immediate urgency.

By the same token, I would like to ask for a freeze on the consideration of the work of the Advisory Committee on the Medical Uses of Isotopes on the patient release issue. Basically, the ACMUI and NMSS management appear as adamant as always that they know more about the health risks of internal doses of iodine 131 ("small or negligible" says the most recent draft ACMUI subcommittee report, dated February 24, 2020) than the Centers for Disease Control, which said this in 2002:

Exposure to I-131, especially in childhood, increases the risk for hypothyroidism, thyroid nodules, and cancer. ... A child's thyroid dose from ingestion can be up to 20 times that of an adult because the same amount of energy is deposited in a smaller tissue mass. A child's thyroid dose from inhalation can be twice that of an adult, and is 15–20 times higher than the overall dose to the rest of the body.

Is this the moment in our national history for an agency without a single medical doctor on its staff to go on record declaring that it knows better than the CDC on an issue of public health?

There are also serious procedural questions as to whether the ACMUI has afforded adequate notice of its activities on this issue, but they too can wait for another time.

I wish good health to all, and to their loved ones, and hope to hear soon that the NRC has decided to keep as many employees as possible at home, for their own and others' safety.

Respectfully submitted,

/s/

Peter Crane, NRC Counsel for Special Projects (retired)

On Fri, May 15, 2020 at 1:25 PM Dennis K Rathbun <dennisk.rathbun@gmail.com> wrote:

Everybody well?

We are Hunkered down in our Annapolis rabbit hole. Phooey. This is getting quite old.

Now reading Beschloss book in the LBJ secret tapes — 64-65. Other techie reading stuff. Whoopee.

Sent from my iPhone