

## **SUMMARY OF MINUTES OF THE FIRST PUBLIC MEETING OF THE VETERANS' ADVISORY BOARD ON DOSE RECONSTRUCTION**

The first meeting of the Veterans' Advisory Board on Dose Reconstruction (VBDR or the Board) was held at the Hyatt Regency Tampa Hotel in Tampa, Florida on August 17-18, 2005.

In accordance with the provisions of the Federal Advisory Committee Act, *P.L. 92-463*, which sets forth standards for the formation and conduct of government advisory committees, the meeting was open to the public.

### **ATTENDANCE**

*Board Members Present:* Dr. James Zimble (Chairman), Dr. Paul K. Blake, Mr. Harold L. Beck, Dr. John D. Boice, Mr. Kenneth L. Groves, Mr. Thomas J. Pamperin, Dr. Curt R. Reimann, Dr. Kristin Swenson (present on the second day), Mr. George Edwin Taylor, Dr. Elaine Vaughan (via telephone), Mr. Paul L. Voillequé, and Dr. Gary H. Zeman.

*Board Members Absent:* Drs. Ronald Blanck, David McCurdy, and John Lathrop.

*Quorum present:* Yes.

#### *Others Present:*

Designated Federal Official (DFO): Mr. William R. Faircloth.

Defense Threat Reduction Agency staff: Mr. David Algert, Mr. Blane Lewis, Lieutenant Commander Ralph J. Marro (USN), Mrs. Irene Smith, and Colonel Rainer P. Stachowitz (USAF).

National Council on Radiation Protection and Measurements staff: Dr. Isaf Al-Nabulsi, Ms. Patty Barnhill, Ms. Melanie Heister, Dr. David Schauer, and Dr. Thomas Tenforde.

### **OPENING REMARKS**

**Dr. Zimble** (Chairman) called the meeting to order and welcomed everyone to the first meeting of the Board. He mentioned that the Board has been established under *P.L. 108-183*, enacted on December 16, 2003, to provide guidance and independent oversight of the dose reconstruction and claims compensation programs for veterans who participated in US-sponsored atmospheric nuclear weapons tests from 1945-1962; veterans of the 1945-1946 occupation of Hiroshima and Nagasaki, Japan; and veterans who were prisoners of war in those regions when the atomic bombs were detonated.

Established by the Secretary of Defense and the Secretary of Veterans Affairs, the 16-member Board will provide review and independent oversight of the dose reconstruction and claims programs for service connection of radiogenic diseases. The Board will assist the Department of Veterans Affairs (VA) and the Defense Threat

Reduction Agency (DTRA) in communicating with veterans regarding procedures used in the dose reconstruction and claims process.

**Mr. William R. Faircloth** added his welcome and explained his role as Designated Federal Official (DFO). He mentioned that the Board members were selected to provide expertise in quality management, decision analysis, historical dose reconstruction, radiation health matters, risk communications, radiation epidemiology, medicine and ethics, and an atomic veteran representative in order to appropriately enable the Board to represent and address veterans' concerns. He also invited guests to make use of the available handouts.

## **SUMMARY OF FIRST PUBLIC MEETING OF THE BOARD**

DTRA and VA held its first public meeting of the Board August 17-18, 2005 in Tampa, Florida. The Board's first meeting was held immediately following the National Association of Atomic Veterans (NAAV) annual convention in Tampa on August 14-16, 2005.

The primary topics of the two-day VBDR meeting included a briefing on the current status of the Nuclear Test Personnel Review (NTPR) program by Dr. Paul Blake of DTRA; a briefing on the current status of the VA radiation compensation program for veterans by Mr. Thomas J. Pamperin; a briefing on perspectives on dose reconstruction by Dr. Paul Ziemer (Chairman, President's Advisory Board on Radiation and Worker Health (ABRWH)); a statement on the perspectives of the NAAV by the National Commander, Mr. R. J. Ritter; and the review and approval of the scope of work of four VBDR subcommittees. At the meeting Dr. Isaf Al-Nabulsi, the National Council on Radiation Protection and Measurements (NCRP) Program Administrator for VBDR, discussed mechanisms for contacting the Board, outlined the responsibilities of NCRP, and proposed future meeting dates.

During the meeting, veterans gave public testimony on cancers, birth defects and other debilitating illnesses they believe resulted from their participation in atmospheric nuclear testing and other occupational radiation exposures. They also expressed concerns about problems with DTRA's dose reconstruction procedures and the claims decisions made by VA.

Many of the veterans said it's not money they are seeking, but they want to be recognized for their exposure to nuclear testing and how it affected members of the military.

Verbatim transcripts of each presentation, session, and public comment are available on VBDR Web site at <http://vbdr.org>.

## SUMMARY OF PRESENTATIONS TO VBDR

### *Dr. Paul Ziemer's presentation:*

**Dr. Ziemer** discussed the similarities and differences between the VBDR and his Board (ABRWH), and addressed the composition of the two boards. He also provided a history of the Energy Employees Occupational Illness Compensation Program Act.

**Dr. Ziemer** remarked that ABRWH audits the dose reconstruction process itself. All claims decisions are made by the Department of Labor, and those decisions are not audited by the board. He explained that ABRWH is auditing the process for patterns of procedural, calculational and other deficiencies in the system.

**Dr. Ziemer** also offered some observations on the benefits of having an independent advisory board, which included increased public confidence in the process and the opportunity to introduce alternate views, both scientific and practical. He closed by remarking that he felt the establishment of the VBDR was a positive addition to the Department of Defense dose reconstruction program and that it will play an important role in future compensation programs for military veterans.

### *Dr. Paul Blake's presentations:*

**Dr. Blake** mentioned that about 15 public laws form the basis of regulations that govern the administration of the NTPR program and determine the eligibility of veterans to receive service-related disability compensation based on their radiation exposure during the nuclear-weapons testing program. Those laws have been implemented in Title 38, Code of Federal Regulations, Part 3. The regulations require the VA to provide medical care and compensation to confirmed test participants, as well as indemnity compensation to survivors.

Radiation dose reconstruction has been carried out by the Department of Defense under the NTPR program since the late 1970s. DTRA is the executive agent for the NTPR program, which provides participation data and actual or estimated radiation dose information to veterans. This information is then used by the VA as a basis for considering health care benefits for exposed veterans.

A number of deficiencies in the dose reconstruction and compensation claim programs for eligible veterans have been identified in recent reviews by the General Accounting Office<sup>1</sup> and the National Academy of Sciences (NAS).<sup>2</sup>

**Dr. Blake** remarked that DTRA has already taken several steps to improve the dose reconstruction process. Changes to accelerate radiation dose assessments include placement of government personnel at the contractor worksite, the development of

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<sup>1</sup> General Accounting Office (2000). *Veteran's Benefits: Independent Review Could Improve Credibility of Radiation Exposure Estimates*. Washington, DC: U.S. General Accounting Office.

<sup>2</sup> National Academy of Sciences (2003). *A Review of the Dose Reconstruction Program of the Defense Threat Reduction Agency*. Washington, DC: National Academy Press.

templates for facilitating case processing, external technical review and extensive telephone outreach for veteran input to exposure scenarios. Emphasis is on completeness and attention to ensure veterans' exposure scenarios are complete and all potential doses are included in the assessments.

Dr. Blake discussed the 90-day report to Congress that was submitted as required in June of 2004. That report described and expanded on the eight recommendations in the NAS review of the dose reconstruction program. Twenty-three findings were summarized in the report. The findings are broken down into subcategories: findings 1 through 4 address interagency actions to improve claims procedures; 5 through 14 address DTRA actions to improve NTPR program procedures; 15 through 18 address interagency actions to improve communications, and 19 through 23 address advisory board requirements and functions.

**Dr. Blake** specifically discussed findings 5 through 14, which were specific to NTPR. He outlined each of those findings individually and provided action plans, both completed and/or ongoing. The action plans are expected to overcome deficiencies in the dose reconstruction program.

**Dr. Blake** noted that currently there is a six-month backlog of claims waiting to be processed. The backlog was precipitated by the May 2003 NAS review. A lengthy and time-consuming process, dose reconstruction requires historical evidence of a veteran's participation in a nuclear event. Many veterans of nuclear testing were not issued dosimeters. Insufficient record keeping and inconsistencies in available historical documentation frequently complicate and delay the dose reconstruction process. Often the only documents available for dose reconstruction are operational orders and schedules of events. In most cases, the surviving historical documentation of activities addresses test specifications and technical information, rather than personal data.

Complicating the issue is that while ionizing radiation is capable of causing cancer, there are currently no methods available to distinguish cancers caused by radiation exposure from those caused by aging, smoking, environmental factors, and other hazardous agents.

**Dr. Blake** described the types of documents that are sought and where that information might be located. Noting that claims may involve not only his program but other occupational radiation exposures, he then described the military service offices that help to coordinate the process and assist the VA, such as the Army Surgeon General's Office, Office of Preventive Medicine, et cetera.

He noted his program is making new efforts to facilitate the process, reduce delays, shorten the timelines for dose reconstruction and eliminate the case backlog.

***Mr. Thomas Pamperin's presentation:***

**Mr. Pamperin** explained the role of his department in administering all of the non-medical benefits, including insurance, home loan guarantees, and so on. He specifically discussed

the term “compensation”, which he described as a monetary payment for an injury or disease incurred during active duty.

**Mr. Pamperin** outlined the steps for processing of a radiation claim once received from a VA regional office, including a review of completeness and forwarding to the Veterans Health Administration (VHA) for a medical opinion, before return to the regional office.

**Mr. Pamperin** remarked that in a normal year about 600 cases will be sent to DTRA for dose reconstruction. He explained how a case is developed once a specific disability is claimed, the title under which the claim is made, and what information is then gathered for making a determination on the claim.

The NAS report on dose reconstruction contained some critical findings. The most important from the VA perspective was that upper bound radiation ingestion doses had been underestimated. Based on that finding, the VA determined that a review of previous denials of claims based on doses that failed to establish causation would be undertaken. More than 11,000 records were reviewed to determine which claims had been denied on that basis, resulting in 1,250 claims requiring readjudication. Thus far 188 claims have been readjudicated, of which 126 were granted compensation.

***Mr. R. J. Ritter's presentation:***

**Mr. Ritter** provided background on the formation of NAAV, which was for the primary purpose of giving those veterans a single-voice platform to express frustrations related to inability to obtain service-connected compensation from the DoD and VA.

**Mr. Ritter** highlighted some milestone events in the lives of atomic veterans. He noted that they are a tribute to atomic veterans who have died from radiation exposure without receiving recognition for their sacrifices.

He noted that there are questions related to the accuracy of the number of veterans exposed to ionizing radiation from atomic weapons tests.

**Mr. Ritter** observed that many key personnel at VA medical facilities have no idea that there is an Ionizing Radiation Registry. VA medical facility personnel have said it is difficult to understand the current VA rules as they apply to the acceptance, disposition and treatment of atomic veterans.

**Mr. Ritter** commented that for more than 45 years the U.S. Congress, along with DoD and the VA, had commissioned numerous panels and advisory boards to address the monetary and medical needs of the atomic veterans. Most of those board members possess impeccable credentials and impressive biographies. But to the sick and aging veterans, these credentials are totally meaningless. He remarked that while those veterans continued to suffer from radiation-induced illnesses, consultants continued to generate theoretical opinions and hypothetical scenarios, all of which have denied the veterans recognition and benefits.

Noting that a key issue of concern to the atomic veterans is post-exposure radiation-induced genetic mutations, **Mr. Ritter** stated it is the belief of the NAAV, as well as other veterans' associations, that dose reconstruction is a waste of taxpayer funds, results cannot be accurately substantiated, nor can they be verified as credible. Furthermore, NAAV believes all atomic veterans should be placed in the same VA medical care group as those veterans who were awarded the Purple Heart, without restrictions.

Declaring these Cold War warriors are trapped in a twilight zone of Congressional procrastination and political indecisiveness, **Mr. Ritter** closed by stating it was time for a major change on their behalf.

***Dr. Isaf Al-Nabulsi's presentations:***

**Dr. Al-Nabulsi**, Program Administrator of the VBDR and a member of the NCRP staff, explained that her responsibilities are to provide technical and administrative support, and to ensure efficiency and quality of all NCRP operations related to the Board.

She outlined the areas in which NCRP will provide assistance to DTRA in facilitating Board meetings and activities, provide technical assistance, and prepare reports to be published over the coming five to six years.

**Dr. Al-Nabulsi** observed there are also responsibilities the Board does not have, such as providing a service by reviewing dose reconstructions for particular individuals, serving as an appeals board, helping a claimant with his or her claim, or changing or revising the provisions of the Radiation-Exposed Veterans' Compensation Act.

Stressing that the Board would like to hear from veterans on issues or problems that may be claims-related, **Dr. Al-Nabulsi** discussed several ways the veterans can communicate with the Board. They include written communication, telephone, e-mail, and visiting the VBDR Web site.

**Dr. Al-Nabulsi** noted that the Board will hold its public meetings at locations throughout the United States where large numbers of atomic veterans have filed compensation claims. Transcripts and minutes of each meeting will be prepared and posted on the VBDR Web site.

The Board meetings are open to the public and anyone can attend. Date, time, location and proposed agenda for upcoming meetings will be announced in the *Federal Register* and can also be found on the VBDR Web site. News releases announcing each meeting will be provided to news media and veterans' groups. All veterans are encouraged to attend Board meetings.

## VBDR SUBCOMMITTEES

The Board was mandated by Congress to audit dose reconstruction and VA claims decisions for service connection of radiogenic diseases and improve communication with veterans. The Board's mission is also to address veterans concerns about the possibility of an elevated risk of cancer and other illnesses in veterans who were exposed to radiation or fallout from nuclear weapons testing, and the validity of their dose reconstructions.

To accomplish its task, the Board approved the formation of four subcommittees, their scope of work and their membership. The four subcommittees are:

- Subcommittee on DTRA Dose Reconstruction Procedures (Mr. Harold Beck, Chairman; members are: Dr. Paul Blake (DTRA liaison), Mr. Paul Voillequé, and Dr. Gary Zeman).
- Subcommittee on VA Claims Adjudication Procedures (Dr. Ronald Blanck, Chairman; members are: Mr. Thomas Pamperin (VA liaison), and Dr. James Zimble).
- Subcommittee on Quality Management and VA Process Integration with DTRA's Nuclear Test Personnel Review Program (Dr. Curt Reimann, Chairman; members are: Dr. John Lathrop, Dr. David McCurdy, and Dr. Kristin Swenson).
- Subcommittee on Communication and Outreach (Mr. Kenneth Groves, Chairman; members are: Dr. John Boice, Dr. John Lathrop, Mr. Ed Taylor, and Dr. Elaine Vaughan).

The work of these subcommittees will meet specific requirements of *P.L. 108-183*.

## PUBLIC COMMENT PERIOD

Input from the public was solicited on both days of the meeting and is reported in the meeting transcripts. The following is a list of the members of the public who addressed the Board at the meeting. Verbatim transcripts of the public comments will be made available on VBDR Web site at <http://vbdr.org>.

**Mr. Jim Taylor**, National Association of Atomic Veterans, Area Commander for northeast Florida; **Mrs. Bettie Jo Taylor**, wife of Jim Taylor; **Mr. Charles Wisner**, past Commander of the National Association of Atomic Veterans, National VA Volunteer Services representative, National VA medical representative; **Mrs. Pat Broudy**, widow of Charles Broudy, atomic veteran; **Mr. Charles Clark**, atomic veteran; **Mr. Bernie Clark**, atomic test observer; **Mr. Joseph DeSalvo**, atomic veteran; **Mr. Clyde Wyant**, atomic veteran; **Mr. Thomas Daly**, atomic veteran; **Mr. Paul DeGunther**, atomic veteran; and **Mrs. Betty DeGunther**, wife of Paul DeGunther.

## **VBDR DISCUSSION POINTS**

The VA is solely responsible for making medical determinations regarding the service connection of disabilities and administering benefits. DTRA is responsible for reconstructing radiation exposure doses, and has no role in medical decisions or the adjudication of claims.

The Board may make recommendations on modifications to the mission or procedures of the dose reconstruction program if it considers these changes to be appropriate as a result of its audits of dose reconstruction and claims compensation procedures. The Board suggested that it might be wise to look at the cost-benefit analysis of the process that has been established for non-presumptive cases.

The Board emphasized the need for integration and frequent informal communications with subcommittees and with the agencies.

The Board observed that many of the comments and suggestions from the Board and the public are worthy of major recommendations at the next Board meeting.

## **FUTURE VBDR MEETINGS**

Following discussion by the Board, it was agreed to hold the second meeting of the Board on January 12-13, 2006, and the third meeting on June 8-9, 2006. Details about meeting locations will be announced in the federal register and on the VBDR Web site.

## **BOARD'S RECOMMENDATIONS**

The Board did not make any recommendations at this meeting.

**Dr. Zimble** remarked that a reasonable amount of business had been carried out for an inaugural meeting. He thanked the Board and the staff for their efforts, the public for their comments, and called for a motion to adjourn.

The motioned was seconded and carried.

The meeting was adjourned at 2:58 pm on August 18, 2005.