

April 4, 2007

EA-07-048

Mr. L.K. Thompson, Administrator  
Penn State Milton S. Hershey Medical Center  
500 University Drive  
P.O. Box 850, Mail Drop H141  
Hershey, PA 17033-0850

SUBJECT: NOTICE OF VIOLATION (NRC Inspection Report No. 2006-002)

Dear Mr. Thompson:

This letter refers to the NRC inspection conducted from December 20 to 22, 2006 at the Milton S. Hershey Medical Center in Hershey, PA to review licensed activities authorized by the above listed NRC license. During this inspection, the NRC also reviewed the circumstances associated with an apparent violation identified by your radiation safety staff involving the failure to secure or control licensed material in your nuclear medicine hot lab for approximately 10 minutes on August 1, 2006. In a letter dated January 23, 2007, you provided a description of the August 1, 2006 event and your corrective actions taken to address the causes of the event. The inspector discussed preliminary findings of the inspection with you and members of your staff on December 22, 2006, and conducted an exit meeting on January 30, 2007. The findings of the inspection were also described in detail in NRC Inspection Report 03003203/2006002 sent to you on March 13, 2007.

In addition, during a telephone conversation between you and Ms. Penny Lanzisera of NRC, Region I, on March 1, 2007, Ms. Lanzisera informed you that based on the NRC inspection finding, as well as information you provided to the NRC in a letter dated January 23, 2007, and during the telephone conversation on March 1, 2007, the NRC had sufficient information regarding the violation and your corrective actions to make an enforcement decision. However, during that conversation, the NRC offered you the opportunity to attend a predecisional enforcement conference (PEC). You indicated that since you had no additional information to provide to the NRC, the Milton S. Hershey Medical Center declined the opportunity to discuss the violation in a PEC.

Based on the inspection, as well as the information provided in the January 23, 2007 letter, the NRC has determined that a violation of NRC requirements occurred at your facility. The violation is cited in the enclosed Notice of Violation (Notice) and the circumstances surrounding it are described in detail in the subject inspection report. The violation involved the failure to secure or control access to two molybdenum-99/technetium-99m generators which were located in an unlocked and unattended nuclear medicine hot laboratory. The violation occurred when a Nuclear Medicine Technologist (NMT) left the lab door unlocked when responding to a patient emergency. During that time, a patient transport aide removed an IV pole with an attached nebulizer containing quantities of technetium-99m. The violation is of concern to the

NRC because it could have resulted in the unauthorized removal of either generator from the facility, as well as unnecessary exposures to members of the public if the radioactive materials were not properly shielded. Therefore, this violation is categorized at Severity Level III in accordance with the NRC Enforcement Policy.

Because your facility has been the subject of escalated enforcement action within the last two years or two inspections (reference: EA-04-215 for a Confirmatory Order and a Severity Level III Notice of Violation issued on October 14, 2005), the NRC considered whether credit was warranted for *Identification* and *Corrective Action* in accordance with the civil penalty assessment process in Section VI.C.2 of the Enforcement Policy. Credit for identification is warranted because the violation was identified by your radiation safety staff. Credit for corrective actions is also warranted because the actions were considered prompt and comprehensive. These corrective actions included, but were not limited to: (1) planning and scheduling in-service training programs for the NMT's and the Patient Transport Aides, emphasizing safety, security and emergency response; (2) revising the nuclear medicine department's procedures to stress security of radioactive material; and, (3) training nurses on the exact conditions under which equipment can be sought or removed from the nuclear medicine laboratory.

Therefore, to encourage prompt and comprehensive correction of violations, I have been authorized, after consultation with the Director, Office of Enforcement, to issue the enclosed Notice of Violation for the Severity Level III violation with no civil penalty. However, you should be aware that significant violations in the future could result in a civil penalty. In addition, issuance of this Notice constitutes escalated enforcement action that may subject you to increased inspection effort.

The NRC has concluded that information regarding the reasons for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in this letter, in your letter dated January 23, 2007, and in the inspection report issued on March 13, 2007. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice. To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Mr. L.K. Thompson

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In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov/>; select **About NRC, Organizations & Functions, Office of Enforcement, About Enforcement**, then **Significant Enforcement Actions**.

Sincerely,

*/RA/ Marc L. Dapas Acting For*

Samuel J. Collins  
Regional Administrator

Docket No. 030-03203  
License No. 37-13831-01

Enclosure: Notice of Violation

cc w/encl:  
Commonwealth of Pennsylvania

Mr. L.K. Thompson

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## NOTICE OF VIOLATION

Penn State Milton S. Hershey Medical Center  
Hershey, Pennsylvania

Docket No. 030-03203  
License No. 37-13831-01  
EA-07-048

During an NRC inspection conducted from December 20 to December 22, 2006, for which an exit meeting was held on January 30, 2007, the NRC reviewed the circumstances associated with a violation of NRC requirements identified by the licensee. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 20.1801 requires that the licensee secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas. 10 CFR 20.1802 requires that the licensee control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage. As defined in 10 CFR 20.1003, controlled area means an area, outside of a restricted area but inside the site boundary, access to which can be limited by the licensee for any reason; and unrestricted area means an area, access to which is neither limited nor controlled by the licensee.

Contrary to the above, on August 1, 2006, the licensee did not secure from unauthorized removal or limit access to two molybdenum-99/technetium-99m generators located in a nuclear medicine hot lab, which is a controlled area, nor did the licensee control and maintain constant surveillance of this licensed material.

This is a Severity Level III violation.

The NRC has concluded that information regarding the reasons for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence, and the date when full compliance was achieved, is already adequately addressed on the docket in the letter transmitting this Notice, in your letter dated January 23, 2007, and in the inspection report issued on March 13, 2007. Therefore, you are not required to respond to this Notice unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond to this violation, clearly mark your response as a "Reply to a Notice of Violation, EA-07-048" and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region I, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you choose to respond, the response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have

withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within two working days.

Dated this 4th day of April 2007