

Paul J. Early, DABSNM, DABR
Vice President, Radiation Safety Officer
Digirad, Inc.



Please respond to the address indicated with the "X"

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February 20, 2006

Karen D. Cyr
General Counsel
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Re: Violation and Confirmatory Order (NRC Office of Investigations Report No. 1-2004-034

Dear Ms. Cyr,

In a letter dated January 27, 2006, signed by Michael Johnson, Director, Office of Enforcement, the NRC concluded, following an ADR held on November 16, 2005, that my employer, Digirad Imaging Solutions, Inc. (DIS), provided inaccurate preceptor information when it submitted an application to add a physician on its Radioactive Material License (RML) as an Authorized User (AU); the NRC further asserted (though the parties agreed to disagree on this point) that DIS acted in careless disregard of NRC requirements. The NRC took this position even though an investigation completed by the NRC Office of Investigation concluded that DIS had no knowledge of the inaccuracy of the information the physician had submitted to us. It was the conclusion of the NRC that, nonetheless, this was a violation in careless disregard of the NRC requirements because a licensee is responsible for the acts and omissions of its agents. As stated, DIS and the NRC agreed to disagree on this interpretation of the regulations.

DIS took corrective actions prior to the ADR which included removing two AUs from our license, canceling a contract that we held with the physician to provide Nuclear Cardiology imaging services, and reinforcing the necessity of supplying complete and

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accurate information with any submission that would be presented to DIS for support of such preceptor statements in the future. We have also agreed to take certain steps to verify, as best we can, the accuracy of information submitted by prospective AUs that have never been named on an NRC/Agreement State license before or have not been board certified by any of the approved certification boards (e.g., the Certification Board of Nuclear Cardiology).

However, we do have a question that the NRC agents involved during the mediation declined to answer, but encouraged us to pose to you: can DIS continue to rely, without the need for independent verification, on that fact that the physician seeking to be named on our license has already been named as an AU on another license (NRC and/or Agreement State) or has already been certified by one of the approved certification boards (either of which DIS has used in the past as proof of the requisite training and experience)? DIS believes that it should clearly be able to do so, should have no independent duty of verification in these instances, and should certainly not be penalized if the information submitted by the physician to these third parties in fact turns out to have been falsified. To hold DIS responsible for the lack of due diligence on the part of such third party licensing and credentialing organizations would seem to undermine the very reason for obtaining such licensing and credentialing – i.e., the right of others justifiably to rely on the end result.

Since, as part of our ADR agreement, I have agreed to prepare and submit a commentary to various scientific journals about the results and implications of the recent mediation, it is important that I accurately state the extent to which a licensee, wishing to add an AU to its RML, must go to satisfy its due diligence obligations.

Thank you for your immediate attention to this matter.

Sincerely,



Paul J. Early, DABSNM, DABR
Vice President, Corporate Radiation Safety
Digirad Corporation