

April 14, 2006

Mr. Paul J. Early, DABSNM, DABR
Digirad Imaging Solutions, Inc.
P.O. Box 340
Bemus Point, NY 14712

SUBJECT: RESPONSE TO FEBRUARY 20, 2006, LETTER REGARDING VERIFICATION OF PHYSICIAN QUALIFICATIONS [RE: "VIOLATION AND CONFIRMATORY ORDER (NUCLEAR REGULATORY COMMISSION OFFICE OF INVESTIGATIONS REPORT NO. 1-2004-034)"]

Dear Mr. Early:

Your letter, dated February 20, 2006 to Karen Cyr, discussed a recent incident whereby your company, Digirad Imaging Solutions (DIS), was the subject of a U.S. Nuclear Regulatory Commission (NRC) escalated enforcement action, because DIS provided inaccurate preceptor information in a submitted application to add a physician as an authorized user (AU) to its radioactive materials license. That incoming letter to Karen Cyr was referred to the Materials Safety and Inspection Branch (MSIB). In this context, MSIB prepared a response to your question, "Can DIS rely, without the need for independent verification, on the 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)?"

The answer to your question is, "yes." By virtue of the applicant's status as a board certified physician by a speciality board that is currently recognized by the NRC or as an AU listed on a current NRC or Agreement State license, the NRC agrees that it is reasonable to conclude that the applicant is indeed a qualified AU. Nevertheless, the following steps are necessary to verify board certification or AU status:

- Verify that the board that certifies the physician is one that is currently recognized by the NRC, since the status of a board's recognition has an effective date and the status is subject to change. The list of NRC recognized boards can be found at: <http://www.nrc.gov/materials/miau/miau-reg-initiatives/spec-board-cert.html>.
- Verify the physician is listed as an AU on an NRC or Agreement State license. The NRC Public Document Room can be contacted at 1-800-397-4209 or (301) 415-4737 to provide assistance with NRC licenses.
- Verify that no escalated enforcement action, which could jeopardize the standing of the applicant as a qualified individual, has been issued to the physician. An example of such an enforcement action is the issuance of an order for the applicant to refrain from licensed activities. The following website includes a collection of significant enforcement actions issued by the NRC to licensees, individuals, and non-licensees for failure to comply with the regulations: <http://www.nrc.gov/what-we-do/regulatory/enforcement.html>.

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To verify that the physician is listed on an Agreement State license, and that no escalated enforcement action has been taken against the individual, contact the applicable Agreement State. The Agreement State contacts can be found at: <http://www.hsrp.ornl.gov/nrc/rulemaking.htm>.

Since licensees are responsible for the acts as well as the omissions of its employees, the NRC believes that these steps of verification are necessary to assure that the proposed AU is indeed an AU, or is board certified, and that his or her status remains favorable with the present licensee and applicable regulating entity (either the NRC or the Agreement State).

I hope this information is responsive to your needs. Should you have additional questions, feel free to contact Angela McIntosh or Cindy Flannery of my staff at (301) 415-5030 or (301) 415-0223; or by e-mail at arm@nrc.gov or cmf@nrc.gov, respectively.

Sincerely,

/RA/

Thomas H. Essig, Chief
Materials Safety and Inspection Branch
Division of Industrial and Medical Nuclear Safety
Office of Nuclear Material Safety and Safeguards

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/RA/

Thomas H. Essig, Chief
Materials Safety and Inspection Branch
Division of Industrial and Medical Nuclear Safety
Office of Nuclear Material Safety and Safeguards

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