



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION IV
611 RYAN PLAZA DRIVE, SUITE 400
ARLINGTON, TEXAS 76011-8064

November 15, 2006

EA-06-258

Mr. Ben Quinton
Chief Executive Officer
Evanston Hospital Corporation
dba Evanston Regional Hospital
190 Arrowhead Drive
Evanston, Wyoming 82930

SUBJECT: NRC INSPECTION REPORT 030-33981/06-001 AND OI INVESTIGATION
REPORT NO. 4-2006-031 AND NOTICE OF VIOLATION

Dear Mr. Quinton:

This refers to the investigation conducted by the Nuclear Regulatory Commission's (NRC) Office of Investigations (OI) on June 7, 2006, at your facility located in Evanston, Wyoming. The investigation was conducted in response to an incident that you reported on May 23, 2006, to Region IV personnel that involved the use of licensed material at a patient's home, a location that was not authorized on your license. The preliminary investigation findings were discussed with your staff at the conclusion of the onsite portion of the review. A final exit meeting was conducted telephonically with you and your staff on October 31, 2006.

Based on the results of the investigation, the NRC has determined that two violations of NRC requirements occurred. The violations involve failures to: (A) confine the use of radioactive materials to places listed on your license; and (B) prepare the appropriate shipping papers for transport of byproduct material outside the site of usage. Further, the NRC has concluded that Violation A involved willfulness on the part of the nuclear medicine technologist, based on the following: the technologist knew and was trained that licensed material was only authorized for use at Evanston Regional Hospital (ERH), and the technologist had 5 years experience at the hospital and never administered license material at any other location in the past.

Because of the willfulness involved, Violation A could have been considered for escalated enforcement action in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's web site at www.nrc.gov; select **What We Do, Enforcement**, and then **Enforcement Policy**. However, based on the circumstances in this case, the NRC has concluded that Violation A is appropriately categorized at Severity Level IV. This is based on the following: the technologist is not a supervisor; the potential safety consequences of the action were minor because of the radioactive isotope involved; there was no personal or corporate gain associated with the action; your response to the action was timely and included disciplinary action against the technologist; your staff, without NRC involvement, conducted an investigation into the event; you identified the incident and reported it to the NRC; and there was no management involvement. The potential safety consequences with Violation B are limited because of the other measures that were taken to transport the radioactive material. Therefore, in accordance with the NRC Enforcement Policy, Violation B also has been

classified at Severity Level IV. The violations are cited in the enclosed Notice of Violation (Notice) because Violation A was willful and Violation B was identified by the NRC during the investigation.

The ERH's corrective actions for Violation A included performing a complete investigation of the incident, temporarily closing the nuclear medicine department until the investigation was complete, taking disciplinary action against the technologist and retraining him, and reporting the incident to the NRC. Concerning Violation B you indicated that ERH had never shipped radioactive material in the past and did not intend to in the future. You stated that if ERH does ship radioactive material in the future, that appropriate shipping papers would be prepared in accordance with the Department of Transportation's regulations.

The NRC has concluded that information regarding the reasons for the violations, and the licensee's actions taken and planned to correct the violations and prevent recurrence, is already adequately addressed on the docket as stated previously. Therefore, you are not required to respond to this letter or the enclosed Notice 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.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response (if any) 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, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction.

Sincerely,

/RA ADGaines for/

Vivian H. Campbell, Chief
Nuclear Materials Inspection Branch

Docket No.: 030-33981
License No.: 49-27532-01

Enclosure:
Notice of Violation (Notice)

cc w/Enclosure:
Wyoming Radiation Control Program Director

bcc w/Enclosure (via ADAMS distrib):

- MJohnson, OE
- CHMiller
- FDBrown
- MVasquez
- HAFreeman
- KDFuller
- LDWert
- CLCain
- VHCampbell
- JEWhitten
- ADGaines
- SLMerchant, OE
- DStarkey, OE
- MSchwartz, OE
- RITS Coordinator
- NMIB File
- RIV File (5th Floor)
- OEMail

SUNSI Review Completed: **ADG**

ADAMS: Yes No Initials: **ADG**

Publicly Available Non-Publicly Available Sensitive Non-Sensitive

DOCUMENT NAME: s:\dnms\nmib\!adg\Escalated\Evanston.wpd final r:\ dnms

RIV:DNMS:NMIB	C:NMIB	ES:ACES	D:ACES
ADGaines	VHCampbell	MVasquez	KFuller
<u>/RA/</u>	<u>/RA/</u>	<u>/RA/</u>	<u>/RA/</u>
11/01/2006	11/03/2006	11/15/2006	11/15/2006

ENCLOSURE

NOTICE OF VIOLATION

Evanston Hospital Corporation
dba Evanston Regional Hospital
Evanston, Wyoming

Docket No. 030-33981
License No. 49-27532-01
EA-06-258

During an NRC investigation conducted on June 7, 2006, two violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 30.34(c) requires, in part, that each licensee confine his possession and use of byproduct material to the locations and purposes authorized by the license.

License Condition 10 requires that licensed material be used only at the licensee's facilities at 190 Arrowhead Drive, Evanston, Wyoming.

Contrary to the above, the licensee did not confine its possession and use of byproduct material to the locations authorized by the license. Specifically, on May 15, 2006, a nuclear medicine technician administered by injection 25 mCi of Tc-99m MDP to a patient in the patient's home, a location not authorized by the license.

This is a Severity Level IV violation (Supplement VI).

- B. 10 CFR 71.5(a) requires, in part, that each licensee who transports licensed material outside the site of usage, as specified in the NRC license, shall comply with the applicable DOT regulations in 49 CFR Parts 107, 171 through 180, and 390 through 397.

49 CFR 172.200(a) requires, with exceptions not applicable here, that each person who offers a hazardous material for transportation describe the hazardous material on the shipping paper in the manner required by subpart C of 49 CFR Part 172. Pursuant to 49 CFR 172.101, radioactive material is classified as hazardous material.

Contrary to the above, the licensee failed to prepare the appropriate shipping papers for transport of byproduct material outside the site of usage. Specifically, on May 15, 2006, a nuclear medicine technician transported 25 mCi of Tc-99m MDP from the authorized location of use to a patient's home in their personal vehicle without preparing shipping papers.

This is a Severity Level IV violation (Supplement V).

The NRC has concluded that information regarding the reason for the violations, and the corrective actions taken and planned to correct the violations and prevent recurrence, and the date when full compliance was achieved is already adequately addressed on the docket in the cover letter to this Enclosure. However, you are required to submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your

corrective actions or your position. If you choose to respond, clearly mark your response as a "Reply to a Notice of Violation," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region IV, at 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you contest this enforcement action, you should also provide a copy of your response, with the basis for your denial, to the Director, Office of Enforcement, United States Nuclear Regulatory Commission, Washington, DC 20555-0001.

If you choose to respond, your 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>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

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

Dated this 15th day of November 2006.