



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

January 25, 2007

IA: 06-313

Lee-Cheng (Jean) Peng
HOME ADDRESS DELETED
UNDER 10 CFR 2.390

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT NO. 1-2006-015

Dear Ms. Peng:

This letter is in reference to an investigation initiated on January 11, 2006, by the NRC's Office of Investigations (OI) at the Monmouth Medical Center (MMC), Long Branch, New Jersey. The purpose of the OI investigation was to determine if MMC provided inaccurate information to the NRC in a license amendment request.

NRC concluded that you deliberately provided inaccurate information to MMC, causing MMC to be in violation of NRC regulations. The basis for this finding is described in the enclosed letter to MMC and the Factual Summary of the related OI Investigation Report (Reference: Case No. 1-2006-015) attached to the letter. Your actions constituted an apparent violation of Title 10 of the Code of Federal Regulations (CFR) Part 30.9(a) and Part 30.10(a). 10 CFR 30.9(a) requires, in part, that information provided to the Commission by an applicant for a license shall be complete and accurate in all material respects. 10 CFR 30.10(a)(2) requires, in part, that any employee or contractor of a licensee may not deliberately submit to the NRC or to a licensee, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

This apparent violation is being considered for escalated enforcement 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**, then **Enforcement Policy**.

Before the NRC makes its enforcement decision, we are providing you the opportunity to either (1) respond to the apparent violation addressed in this letter within 30 days of the date of this letter, (2) request a predecisional enforcement conference (PEC) to discuss the apparent violation, or (3) request Alternative Dispute Resolution (ADR) to resolve this issue.

If you choose to respond in writing, your response should be clearly marked as a "Response to Apparent Violation Described in Individual Action #06-313" and should include for the apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved.

If you request to attend a PEC, it will not be open for public observation, but will be transcribed. The decision to hold a PEC does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference would be held to obtain

information to assist the NRC in making an enforcement decision. This may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned. The conference would provide you an opportunity to present your perspective on these matters and any other information that you believe the NRC should take into consideration in making an enforcement decision. In addition, you may have an attorney or personal representative attend the conference, but it should be understood that the NRC will address its questions to you. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," may be helpful.

Instead of a PEC, you may request Alternative Dispute Resolution (ADR) with the NRC. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. In mediation, a neutral mediator with no decision-making authority helps parties clarify issues, explore settlement options, and evaluate how best to advance their respective interests. The mediator's responsibility is to assist the parties in reaching an agreement. However, the mediator has no authority to impose a resolution upon the parties. Mediation is a confidential and voluntary process. If the parties to the ADR process (the NRC and yourself) agree to use ADR, they select a mutually agreeable neutral mediator and share equally the cost of the mediator's services. Additional information concerning the NRC's ADR can be obtained at <http://www.nrc.gov/what-we-do/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as an intake neutral. Intake neutrals perform several functions, including: assisting the parties in determining ADR potential for their case, advising parties regarding the ADR process, aiding the parties in selecting an appropriate mediator, explaining the extent of confidentiality, and providing other logistic assistance as necessary. Please contact ICR at 607-255-1124 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

Please contact Ms. Pamela Henderson at (610) 337-6952 within 10 days of the date of this letter to notify the NRC of your decision to either respond in writing, participate in a PEC, or pursue ADR.

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 Publicly Available Records (PARS) component of the NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm.html> (the Public Electronic Reading Room). However, the NRC will delay making available a copy of this letter until an enforcement decision has been made. At that time, in accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, with your home address removed, will be made available to the Public, if enforcement action is taken.

This letter will be maintained by the Office of Enforcement (OE) in a NRC Privacy Act system of records, NRC-3, "Enforcement Actions Against Individuals." The NRC-3 system notice, which provides detailed information about this system of records, can be accessed from our Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

L. Peng

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Thank you for your cooperation.

Sincerely,

/RA/

Brian E. Holian, Director
Division of Nuclear Materials Safety

Enclosures:

1. NRC letter to MMC with Factual Summary of OI Investigation No. 1-2006-015
2. Excerpts from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION"
3. NUREG/BR-0317, "Post-Investigation ADR Program"

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***DO NOT PLACE IN PDR UNTIL AND UNLESS ENFORCEMENT ACTION (i.e., AN NOV OR ORDER) IS TAKEN AGAINST THIS INDIVIDUAL**

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

January 25, 2007

Docket No. 03017015
EA No. 06-310

License No. 29-08113-01

William Arnold
Vice President Operations
Monmouth Medical Center
300 Second Avenue
Long Branch, NJ 07740

SUBJECT: NRC OFFICE OF INVESTIGATIONS REPORT NO. 1-2006-015

Dear Mr. Arnold:

On January 11, 2006, the Nuclear Regulatory Commission (NRC), Office of Investigations (OI), Region I (RI), initiated an investigation to determine if Monmouth Medical Center (MMC), Long Branch, New Jersey, provided inaccurate information to the NRC in a license amendment request. Based upon the evidence developed during this investigation, OI substantiated that MMC provided inaccurate documentation to the NRC in a license amendment request. The results of the OI Investigation are included in the enclosed Factual Summary of OI Investigation 1-2006-015.

As a result of this OI investigation, one apparent violation of Title 10 of the Code of Federal Regulations (CFR) Part 30.9(a) was identified. 10 CFR 30.9(a) requires, in part, that information provided to the Commission by an applicant for a license shall be complete and accurate in all material respects. Specifically, OI determined that MMC provided inaccurate information to the NRC in support of a request to amend their byproduct materials license to add an Authorized Medical Physicist (AMP) to the license. The current Enforcement Policy is included on the NRC's Web site at www.nrc.gov; select **What We Do, Enforcement**, then **Enforcement Policy**.

Before the NRC makes its enforcement decision, we are providing you with the opportunity to either (1) respond to the apparent violation addressed in this letter within 30 days of the date of this letter, (2) request a Predecisional Enforcement Conference (PEC) to discuss the apparent violation, or (3) request Alternative Dispute Resolution (ADR) to resolve this issue.

If you choose to respond in writing, your response should be clearly marked as a "Response to An Apparent Violation Described in OI Investigation Report No. 1-2006-015, EA-06-310" and should include for the apparent violation: (1) the reason for the apparent violation, or, if contested, the basis for disputing the apparent violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance will be achieved.

If you request to attend a PEC, it would be closed and transcribed. The decision to hold a PEC does not mean that the NRC has determined that a violation has occurred or that enforcement action will be taken. This conference would be held to obtain information to assist the NRC in making an enforcement decision. This may include information to determine whether a violation occurred, information to determine the significance of a violation, information related to the identification of a violation, and information related to any corrective actions taken or planned. The conference would provide you an opportunity to present your perspective on these matters and any other information that you believe the NRC should take into consideration in making an enforcement decision. In presenting your corrective action, you should be aware that the promptness and comprehensiveness of your actions will be considered in assessing any civil penalty of the apparent violations. The guidance in the enclosed excerpt from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION," may be helpful.

Monmouth Medical Center (MMC) may also request Alternative Dispute Resolution (ADR) with the NRC. ADR is a general term encompassing various techniques for resolving conflict outside of court using a neutral third party. The technique that the NRC has decided to employ is mediation. In mediation, a neutral mediator with no decision-making authority helps parties clarify issues, explore settlement options, and evaluate how best to advance their respective interests. The mediator's responsibility is to assist the parties in reaching an agreement. However, the mediator has no authority to impose a resolution upon the parties. Mediation is a confidential and voluntary process. If the parties to the ADR process (the NRC and MMC) agree to use ADR, they select a mutually agreeable neutral mediator and share equally the cost of the mediator's services. Additional information concerning the NRC's ADR can be obtained at <http://www.nrc.gov/what-we-do/regulatory/enforcement/adr.html>. The Institute on Conflict Resolution (ICR) at Cornell University has agreed to facilitate the NRC's program as an intake neutral. Intake neutrals perform several functions, including: assisting the parties in determining ADR potential for their case, advising parties regarding the ADR process, aiding the parties in selecting an appropriate mediator, explaining the extent of confidentiality, and providing other logistic assistance as necessary. Please contact ICR at 607-255-1124 within 10 days of the date of this letter if you are interested in pursuing resolution of this issue through ADR.

Please contact Ms. Pamela Henderson at (610) 337-6952 within 10 days of the date of this letter to notify the NRC of your decision to respond in writing or to participate in the PEC or ADR.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures 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>.

Your cooperation is appreciated.

Sincerely,

/RA/

Brian E. Holian, Director
Division of Nuclear Materials Safety

Enclosures:

1. Factual Summary of OI Investigation Report No. 1-2006-015
2. Excerpts from NRC Information Notice 96-28, "SUGGESTED GUIDANCE RELATING TO DEVELOPMENT AND IMPLEMENTATION OF CORRECTIVE ACTION"
3. NUREG/BR-0317, "Post-Investigation ADR Program"

cc:

Thomas Piccoli, Radiation Safety Officer
State of New Jersey

FACTUAL SUMMARY OF OI INVESTIGATION REPORT NO. 1-2006-015

On January 11, 2006, the U. S. Nuclear Regulatory Commission's (NRC) Office of Investigations (OI), Region I (RI) Field Office, initiated an investigation to determine if Monmouth Medical Center (MMC), Long Branch, New Jersey, provided inaccurate information to the NRC in a license amendment request. Based on the evidence developed during its investigation, OI substantiated that (1) MMC provided inaccurate documentation to the NRC in support of a license amendment request to add an authorized medical physicist (AMP); and (2) two medical physicists, including the one to be added to the MMC license, deliberately provided the inaccurate information to MMC which caused MMC to be in violation of NRC regulations. The amendment request asked that one of the AMPs, a Junior Medical Physicist Consultant, be added to the MMC license because she had performed clinical training at Englewood Hospital and Medical Center (EHMC) from December 2004 through May 2005. OI determined that (1) the dates of that clinical training were inaccurate, (2) the two AMPs, the Junior Medical Physicist Consultant, and a Senior Medical Physicist Consultant, knew that the dates were inaccurate, and (3) the time that the Junior Medical Physicist Consultant spent at EHMC did not constitute clinical training. This information was material to meeting the training and experience requirements of 10 CFR 35.51.

The evidence supporting this conclusion included: (1) a review of contractual employment records indicating that the Junior Medical Physicist Consultant began work at EHMC on February 3, 2005, and not December 2004 as indicated on the documentation submitted to the NRC; (2) the testimony of the Chief Medical Physicist for EHMC that the Senior Medical Physicist Consultant and the Junior Medical Physicist Consultant did not come to EHMC for training or employment before February 3, 2005; and (3) the admission of the Senior Medical Physicist Consultant that the time spent at EHMC by the Junior Medical Physicist Consultant, as indicated on the documentation submitted to the NRC, did not constitute clinical training.