

April 30, 2007

IA-07-023

Lee-Cheng (Jean) Peng

**HOME ADDRESS DELETED  
UNDER 10 CFR 2.390(a)**

SUBJECT: NOTICE OF VIOLATION (NRC INVESTIGATION REPORT NO. 1-2006-015)

Dear Ms. Peng:

This refers to an investigation conducted by the NRC's Office of Investigations (OI) at the Monmouth Medical Center (MMC) in Long Branch, NJ, completed on August 22, 2006. Based on the investigation, OI substantiated that inaccurate information was provided to the NRC by MMC in a preceptor statement that you deliberately provided to MMC in support of its license amendment, causing MMC to be in apparent violation of NRC regulations. In a letter dated January 25, 2007, we provided you a copy of our letter issued on that same date to MMC, with Factual Summary of OI Investigation No. 1-2006-015.

As noted in our January 25, 2007 letter to you, the NRC concluded that you provided inaccurate information to MMC, causing them to be in violation of NRC regulations. Specifically, the preceptor statement you provided to MMC, that listed your qualifications and experience to be added as an Authorized Medical Physicist (AMP) at MMC, was inaccurate in that it indicated that you met the required training and experience requirements to be named as an AMP, including having clinical experience at another licensed facility (Englewood Hospital and Medical Center (EHMC)) from December 2004 to May 2005, when in fact, you had not begun work at the facility in question until February 2005. Based on its investigation, the NRC concluded that your actions were deliberate, in that, you knew that the preceptor statement was inaccurate at the time it was submitted.

The NRC also concluded that your actions constituted an apparent violation of 10 CFR 30.10(a). 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. By deliberately submitting the false preceptor statements to the licensee, you violated 10 CFR 30.10, and you caused MMC to be in violation of 10 CFR 30.9. 10 CFR 30.9 states, in part, that information provided to the NRC by an applicant for a license shall be complete and accurate in all material respects. The NRC has issued enforcement actions to MMC on this date, and a copy of the action is attached.

On February 22, 2007, a Predecisional Enforcement Conference (PEC) was conducted in the Region I office with you to discuss the apparent violation, its significance, its root causes, and your corrective actions. At the PEC, you contended that when you wrote your curriculum vitae, and described your experience during the time you spent with the senior physicist from December 2004 to February 2005, you did not understand the NRC regulations well and thought that the assistance you provided to the senior physicist at EHMC between December

2004 and February 2005 constituted clinical training. However, the NRC disagrees that sufficient evidence exists to substantiate that you did gain substantial clinical training or experience at EHMC between December 2004 and February 2005. Therefore, the NRC has determined that a deliberate violation of NRC requirements occurred. The violation is cited in the enclosed Notice of Violation (Notice) (Enclosure 1).

In considering the significance of the violation, the NRC considered that your violation could have resulted in you being added to an NRC license without fully meeting NRC requirements of an AMP. This, in turn, could result in you being involved in treatments of patients without required experience, which could increase the possibility of a medical event. Considering the facts that: (1) this was an isolated case; and (2) there were no health or safety consequences to the public, this violation would normally be classified at Severity Level IV. However, given the deliberate nature of the violation, the severity level was increased to Level III in accordance with the Enforcement Policy. You should be aware that if you are involved in NRC-licensed activities in the future, additional deliberate violations could result in more significant enforcement action or criminal action, including issuance of an Order that could prohibit your involvement in NRC licensed activities.

The NRC has concluded that information regarding the reasons for the violations, 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 in this letter based on the discussions at the PEC. The corrective actions include changing your resume to correctly reference training received at EHMC as beginning in February 2005 (not December 2004), and (2) not relying on another individual to interpret NRC regulations that apply to you. Therefore, no further response is needed unless the description herein does not adequately 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.

Alternatively, you may request alternate dispute resolution (ADR) with the NRC in an attempt to resolve the issues. If you request ADR in an attempt to resolve the issues, you will need to contact the Institute on Conflict Resolution (ICR) at 877-733-9415 within 10 days of the date of this letter. 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 during a pilot program, which is now in effect, is mediation. Additional information concerning NRC's pilot program is described in the brochure (NUREG/BR-0317) that was provided to you in our January 25, 2007 letter, and can be obtained at <http://www.nrc.gov>. The ICR at Cornell University has agreed to facilitate the NRC's program as an intake neutral.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosures, and 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>. 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. The NRC also includes significant enforcement actions on its Web site at <http://www.nrc.gov>; select **About NRC, Organization &**

**Functions, Office of Enforcement, About Enforcement, then Significant Enforcement Actions.**

In addition, this letter will be maintained by the Office of Enforcement in an 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 the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html>.

Please feel free to contact Pamela Henderson of my staff at 610-337-6952 if you have any questions.

Sincerely,

**/RA/** Original Signed by: Marc Dapas for

Samuel J. Collins  
Regional Administrator

Enclosures: 1. Notice of Violation  
2. Notice of Violation to MMC

cc: State of New Jersey

**Functions, Office of Enforcement, About Enforcement, then Significant Enforcement Actions.**

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cc: State of New Jersey

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## NOTICE OF VIOLATION

Lee-Cheng (Jean) Peng  
**[HOME ADDRESS DELETED  
UNDER 10 CFR 2.390(a)]**

IA-07-023

During an NRC investigation completed on August 22, 2006, a violation of NRC requirements was identified. In accordance with the NRC Enforcement Policy, the violation is listed below:

10 CFR 30.10 (a) requires, in part, that an employee or a contractor of a licensee or applicant may not deliberately submit to the NRC or to the licensee, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Contrary to the above, you provided information to the Monmouth Medical Center (MMC), an NRC licensee, that you knew to be inaccurate, which MMC, in turn, submitted to the NRC. The information indicated that you met the required training and experience to be named as an AMP at MMC. This information was inaccurate, because it indicated that you had gained clinical experience at Englewood Hospital and Medical Center from December 2004 to May 2005, when in fact, you did not work at the licensee's facility until February 2005. This statement was material because it could have influenced the NRC as to whether a license amendment should have been issued based on the preceptor's indication of your training and experience. When asked by MMC's Radiation Safety Officer to verify the substance of the information before its submittal to the NRC by MMC, you expressed to him that the information was accurate.

This is a Severity Level III violation (Supplement VII).

The NRC has concluded that information regarding the reasons for the violations, 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 in the letter transmitting this Notice; based on the discussions at the PEC. Therefore, no further response is needed unless the description herein does not adequately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, clearly mark your response as a "Reply to Notice of Violation; IA-06-313" and send it to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville, MD 20852-2738, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region I.

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.

Because 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>, 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.

This letter will be maintained by the Office of Enforcement in an 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 the NRC Web site at <http://www.nrc.gov/reading-rm/foia/privacy-systems.html> .

Dated this 30th day of April 2007