



**DEPARTMENT OF VETERANS AFFAIRS  
UNDER SECRETARY FOR HEALTH  
WASHINGTON DC 20420**

**APR 08 2010**

Mr. Roy Zimmerman  
Director, Office of Enforcement  
Nuclear Regulatory Commission (NRC)  
One White Flint North, 11555 Rockville Pike  
Rockville, MD 20852-2738

Re: NRC License 03-23853-01VA; Reply to a Notice of Violation; (EA-09-038)

Dear Mr. Zimmerman:

This is in response to your letter dated March 17, 2010, which issued a Notice of Violation and assessed a civil penalty for NRC inspections at the Department of Veterans Affairs (VA) Medical Center in Philadelphia, Pennsylvania. I affirm acceptance of the violations in the NRC report.

Our previous letter dated January 14, 2010, reviewed root causes, corrective actions and compliance dates for the inspection findings at the facility. The facility is not currently authorized to complete medical treatments under 10 CFR 35.400 and will be required to undergo a detailed restart process before such treatments might be approved in the future. I agree with your statements about root causes and do not have any substantive additions to our previous letter and your inspection report.

Your inspection report did not accept our proposal to retract medical events based on an activity metric. I continue to assert, based upon expert guidance from a panel of national leaders in prostate brachytherapy, that the use of the "D90" metric in the evaluation of implants at the medical center was flawed. Further, it is the opinion of the aforementioned panel of experts that the activity-based medical event criteria proposed in our previous letter dated January 28, 2010, are appropriate and conform completely to the present regulations. I plan to continue to pursue approval for use of such a metric.

I will provide separate correspondence to confirm payment of the civil penalty.

I understand the need for of all our facilities using radioactive materials to focus on a safety culture, to increase management oversight, and to avoid undue reliance on affiliates or outside consultants. Please contact me if you have any questions or comments.

Sincerely,

Robert A. Petzel, M.D.