

SAFETY EVALUATION REPORT
PROPOSED CHANGE OF CONTROL FOR BYPRODUCT MATERIALS LICENSE
NUMBER 08-11182-01, Capitol Medical Center, LLC d/b/a United Medical Center

DATE: October 7, 2015

DOCKET NO.: 03001334

LICENSE NO.: 08-11182-01

LICENSEE: Capitol Medical Center, LLC
d/b/a United Medical Center
1310 Southern Avenue, S.E.
Washington, D.C. 20032-4623

TECHNICAL REVIEWER: Robert Gallagher

SUMMARY AND CONCLUSIONS

The Not-For-Profit Hospital Corporation a/k/a the United Medical Center is authorized by U.S. Nuclear Regulatory Commission (NRC) License 08-11182-01 for the possession and use of byproduct material for purposes of medical diagnosis and therapy. The NRC staff reviewed a request for consent¹ to a direct license transfer submitted by the Not-For-Profit Hospital Corporation that resulted when the District of Columbia government foreclosed upon the assets of the former owner (Capitol Medical Center, LLC, d/b/a United Medical Center) of the hospital located at 1310 Southern Avenue, S.E., Washington, D.C. (hospital). The District of Columbia Council statutorily created² the Not-For-Profit Hospital Corporation (NFPHC) in July 2010 as an instrumentality of the District of Columbia government to operate the hospital. Specifically, per DC code § 44-951.02(a), “there is established as an instrumentality of the District government the Not-For-Profit Hospital Corporation, which shall have a separate legal existence within the District government.” Hence, the NFPHC, commonly known as United Medical Center (UMC), is an entity of the District of Columbia government with oversight of the hospital.

The transfer of control is described in Agency Documents Access and Management System (ADAMS) package accession numbers ML15202A063 [letter received June 29, 2015] and ML15202A064 [letter received June 12, 2015].

The request for consent was reviewed by NRC staff for a direct change in control of a 10 CFR Part 30 license using the guidance in NUREG 1556, Volume 15, "Consolidated Guidance About Materials Licenses - Guidance About Changes of Control and About Bankruptcy Involving

¹ By letter received June 29, 2015, the NRC was notified that the Not-For-Profit Hospital Corporation, an independent instrumentality of the District of Columbia government, was statutorily created to operate the hospital located at 1310 Southern Avenue, S.E., Washington, DC 20032. This transfer of control over the hospital necessitated a review by the NRC per 10 CFR 30.34(b)(1).

² The relevant statute, the Not-For-Profit Hospital Corporation Establishment Act (Establishment Act) is codified in District Law at DC Code §§ 44-951.01, *et seq.*, 44-407(b)(14).

Byproduct, Source, or Special Nuclear Materials Licenses," dated November 2000. The NRC staff finds that the information submitted by UMC sufficiently describes and documents the transaction as commitments made by UMC.

As required by 10 CFR 30.34 and section 184 of the Atomic Energy Act of 1954 (the Act), as amended, NRC staff have reviewed the application and find that the proposed change in control is in accordance with the Act. The staff finds that, after the change in ownership, UMC will be qualified to use byproduct material for the purpose requested, and will have the equipment, facilities, and procedures needed to protect public health and safety, and promote the common defense and security.

SAFETY AND SECURITY REVIEW

According to data obtained from the NRC's Licensing Tracking System, the hospital has been authorized to use byproduct material for medical purposes since August 5, 1965. The NRC conducted a main office inspection of the hospital on October 14, 2014, and no violations were identified during this inspection. As stated in its commitments to the NRC, UMC:

- A. will not change the radiation safety officer listed in the NRC license;
- B. will not change the personnel involved in licensed activities;
- C. will not change the locations, facilities, and equipment authorized in the NRC license;
- D. will not change the radiation safety program authorized in the NRC license;
- E. will change the organization's name listed in the NRC license to the Not-For-Profit Hospital Corporation; and
- F. will keep regulatory required surveillance records and decommissioning records.

The Establishment Act establishes NFPHC as an entity of the District of Columbia government. Therefore, for security purposes, the NFPHC is considered a known entity following the guidance provided by the NRC's Office of Nuclear Material Safety and Safeguards (NMSS) "Checklist to provide a basis for confidence that radioactive materials will be used as specified on the license", September 3, 2008 revision. The purpose of this checklist is for the NRC to obtain reasonable assurance from new license applicants or NRC licensees transferring control of licensed activities that the licensed material will be used for its intended purpose and not for malevolent use.

NFPHC is not required to have decommissioning financial assurance based on the types and amount of material authorized in License No. 08-11182-01. Under the foreclosure, the transferee, NFPHC has assumed the assets and liabilities of the transferor, Capitol Medical Center, LLC.

REGULATORY FRAMEWORK

License No. 08-11182-01 was issued under 10 CFR Part 30, Rules of General Applicability to Domestic Licensing of Byproduct Material. The NRC is required by 10 CFR 30.34(b) to

determine if the change of control is in accordance with the provisions of the Act and give its consent to the transaction in writing.

10 CFR 30.34(b)(1) state, “No license issued or granted pursuant to the regulations in this part and parts 31 through 36, and 39 nor any right under a license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing.”

As previously indicated, the staff evaluation is based on guidance in NUREG-1556, Volume 15. As discussed in NUREG-1556, Volume 15, the NRC is generally using the term “change of control” rather than the statutory term “transfer” to describe the variety of events that could require prior notification and written consent of the NRC. The central issue is whether the authority over the license has changed. UMC’s request for consent describes a direct change of control resulting from the foreclosure upon the assets of the former owners of the hospital, Capitol Medical Center, LLC, and statutorily created Not-For-Profit Hospital Corporation pursuant to emergency legislation. Following the completion of the foreclosure, the hospital is under the control of the NFPHC.

DESCRIPTION OF TRANSACTION

The transaction is described in ADAMS package accession number ML15202A063 [letter received June 29, 2015] and ML15202A064 [letter received June 12, 2015]. After completion of the foreclosure, Capitol Medical Center, LLC will cease to exist; the licensee will become the NFPHC and will remain in control of all licensed activities under NRC Materials License No. 08-11182-01. The NRC staff finds that the request for consent adequately provides a complete and clear description of the transaction, and is consistent with the guidance provided in Appendix F of NUREG-1556, Volume 15.

TRANSFeree’S COMMITMENT TO ABIDE BY THE TRANSFEROR’S COMMITMENTS

The NRC staff finds that the information submitted by the NFPHC sufficiently describes and documents the commitments made by both parties, and is consistent with the guidance in NUREG-1556, Volume 15.

ENVIRONMENTAL REVIEW

An environmental assessment for this action is not required since this consent to the described transfer of control and the associated administrative license amendment are categorically excluded under 10 CFR 51.22(c)(21).

CONCLUSION

The staff has reviewed the request for transfer of control with regard to a change of control of byproduct materials License No. 08-11182-01 and, pursuant to 10 CFR 30.34(b), consents to the direct change of control.

The submitted information sufficiently describes the transaction; documents the understanding of the license and commitments; demonstrates that personnel have the experience and training to properly implement and maintain the license and that they will maintain the existing records; and, in the future, the licensee will abide by all existing commitments to the license, consistent with the guidance in NUREG-1556, Volume 15.

Therefore, the NRC staff concludes that the proposed change in control would not alter the previous findings, made under 10 CFR Part 30, that licensed operations will not be inimical to the common defense and security, or to the health and safety of the public.