

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

Docket No. 030-31765-EA

Oncology Services Corporation (OSC)
(Byproduct Material
License No. 37-28540-01)

EA No. 93-006

Affidavit of Leo J. Norton

Leo J. Norton, first being duly sworn, deposes and states:

1. My name is Leo J. Norton, and I am the Assistant Inspector General for Investigations, Office of the Inspector General (OIG), U.S. Nuclear Regulatory Commission (NRC). I have been in this position for three years.
2. The OIG has been involved in an investigation of the Oncology Services Corporation (OSC) since December 1992. The issues under the investigation by OIG concern possible violations of NRC regulations and are directly related to the misadministration incident which occurred at the Indiana Regional Cancer Center (IRCC) in Indiana, Pennsylvania, on November 16, 1992. The willful violations of NRC regulations under investigation may constitute federal criminal offenses.
3. The purpose of this declaration is to inform the Atomic Safety and Licensing Board Panel (ASLBP) presiding over the above captioned NRC case that the OIG is involved in the

ongoing criminal investigation into the activities of OSC, and its employees. The investigation is examining allegations of criminal wrongdoing on the part of OSC and its employees in connection with the conduct of high dose rate (HDR) brachytherapy services. It is anticipated that this investigation can be concluded within 120 days. Should circumstances warrant, however, it may become necessary to request additional time.

4. I have been informed that the allegations being investigated may become the subject of a state grand jury investigation.

5. This administrative proceeding and the criminal investigation involve several of the same factual allegations. On the basis of my initial review of this matter, I believe that several witnesses may be common to both the administrative and any criminal proceeding. Transcribed statements have been taken from some of these witnesses. I understand that these witness statements and other materials would be subject to broad discovery and a hearing in the pending administrative proceeding. Such discovery could require the NRC to produce witness statements and other documents and provide OSC the name, address, telephone number, and place of employment of witnesses with knowledge of facts concerning the alleged violations of the NRC's regulations.

6. Identifying potential witnesses, and providing OSC with statements obtained from these individuals, and other documents would reveal to possible targets at this early stage of the criminal investigation the scope of the government's evidence. Thus, discovery by OSC in this pending administrative action would threaten to prematurely disclose substantial information relating to possible criminal misconduct. Disclosure could irreparably harm the criminal investigation. Accordingly, for these reasons, the OIG requests that the NRC staff seek a stay of the administrative proceedings until the criminal investigation of this matter is completed.

Pursuant to 18 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing is true and correct.



Leo J. Norton
Assistant Inspector General
for Investigations

Executed this 23RD day of
February, 1993 at Bethesda, MD
Washington, D.C.

Notary Public C. Joyce Mc Dow

My Commission Expires 8/18 1994

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NUCLEAR REGULATORY COMMISSION

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USNRC

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OFFICE OF SECRETARY
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ONCOLOGY SERVICES CORPORATION) Docket No. 030-31765-EA
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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF MOTION FOR TEMPORARY DELAY OF PROCEEDING" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system, and, as indicated by a double asterisk by facsimile transmission, this 23rd day of February 1993:

G. Paul Bollwerk, III, Chairman* **
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Kerry A. Kearney, Esq.**
Counsel for Oncology Services Corp.
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P.O. Box 2009
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Dr. Charles N. Kelber* **
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Peter S. Lam* **
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

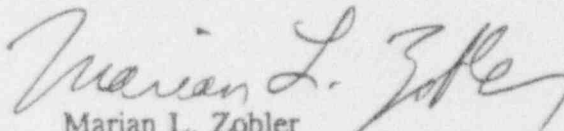
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Adjudicatory File (2)*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of the Secretary (2)*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attn: Docketing and Service Section

Atomic Safety and Licensing Board
Panel (1)*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Office of Commission Appellate
Adjudication (1)*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555


Marian L. Zabler
Counsel for NRC Staff