NOTICE OF VIOLATION
AND
PROPOSED IMPOSITION OF CIVIL PENALTY

Metropolitan Hospital, Inc.
701 West Grace Street
Richmond, Virginia 23220

Docket No. 030-12684
License No. 45-17395-01
EA 93-076

During an NRC inspection conducted on March 15-16, 1993, a violation of NRC requirements was identified. In accordance with the "General Statement of Policy and Procedure for NRC Enforcement Actions," 10 CFR Part 2, Appendix C, the Nuclear Regulatory Commission proposes to impose a civil penalty pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205. The particular violation and associated civil penalty are set forth below:

I. Violations Assessed a Civil Penalty

10 CFR 20.207(a) requires that licensed materials stored in an unrestricted area be secured against unauthorized removal from the place of storage. 10 CFR 20.207(b) requires that licensed materials in an unrestricted area and not in storage be tended under constant surveillance and immediate control of the licensee. As defined in 10 CFR 20.3(a)(17), an unrestricted area is any area access to which is not controlled by the licensee for purposes of protection of individuals from exposure to radiation and radioactive materials.

Contrary to the above, on March 16, 1993, licensed material consisting of approximately 158 millicuries of cesium-137, 36 millicuries of technetium-99m labeled radiopharmaceuticals, and millicurie quantities of technetium-99m labeled radiopharmaceutical waste located in the nuclear medicine hot laboratory, an unrestricted area at the time of the observation, was not secured against unauthorized removal, and was not under constant surveillance and immediate control of the licensee.

This is a Severity Level III violation (Supplement VI).
Civil Penalty - $5000

II. Violations Not Assessed a Civil Penalty

A. 10 CFR 35.25 (a)(1) requires, in part, that the licensee instruct supervised individuals in the licensee's written quality management program.

Contrary to the above, between January 27, 1992, and March 16, 1993, the licensee did not instruct seven supervised individuals in the licensee's quality management program.

This is a Severity Level IV violation (Supplement VI).

B. 10 CFR 20.105(b) requires that, except as authorized by the Commission in 10 CFR 20.105(a), no licensee allow the creation of radiation levels in unrestricted areas which, if an individual

were continuously present in the area, could result in his receiving a dose in excess of 2 millirems in any one hour or 100 millirems in any seven consecutive days.

Contrary to the above, on March 16, 1993, the licensee allowed the creation of radiation levels in a hallway adjacent to the nuclear medicine hot laboratory, an unrestricted area, from millicurie quantities of technetium-99m labeled radiopharmaceutical waste, such that if an individual were continuously present in the area, he could have received a dose in excess of 2 millirems in any one hour or 100 millirems in any seven consecutive days. Specifically, an individual continuously present in the area could have received 5.0 millirem in any one hour.

This is a Severity Level IV violation (Supplement VI).

C. 10 CFR 35.59(g) requires, in part, that a licensee in possession of a sealed source conduct a quarterly physical inventory of all such sources in its possession.

Contrary to the above, the licensee did not conduct a physical inventory of its sealed sources from May 19, 1992, to November 15, 1992, a period in excess of a calendar quarter.

This is a second repeat Severity Level IV violation (Supplement VI).

D. 10 CFR 35.32 (b)(1) requires, in part, that the licensee conduct a review of the quality management program at intervals no greater than 12 months.

Contrary to the above, between January 27, 1992, and March 16, 1993, the licensee did not conduct a review of the quality management program, a period in excess of 12 months.

This is a Severity Level IV violation (Supplement VI).

E. 10 CFR 35.70(a) requires that a licensee survey with a radiation detection survey instrument at the end of each day of use all areas where radiopharmaceuticals are routinely prepared for use or administered.

Contrary to the above, between October 5, 1992 and March 16, 1993, the licensee routinely did not survey with a radiation detection instrument at the end of the day areas where radiopharmaceuticals were routinely prepared for use or administered. Specifically, the licensee surveyed all areas where radiopharmaceuticals were routinely prepared for use or administered at the beginning of each day of use rather than at the end of each day of use.

This is a Severity Level IV violation (Supplement VI).

G. 10 CFR 35.51(c) requires, in part, that a licensee check each survey instrument for proper operation with the dedicated check source each day of use.

Contrary to the above, as of March 16, 1993, the licensee did not routinely check its survey meter with a dedicated check source on days when the instrument was used. Specifically, the licensee did not check its survey meter with the dedicated check source used at the time the meter was calibrated.

This is a Severity Level IV violation (Supplement VI).

F. 10 CFR 35.320 requires, in part, that a licensee authorized to use byproduct material for radiopharmaceutical therapy have in its possession a portable radiation measurement survey instrument capable of detecting dose rates over the range 1 millirem per hour (mR/hr) to 1000 mR/hr.

Contrary to the above, as of March 16, 1993, the licensee did not have in its possession a portable radiation measurement survey instrument capable of measuring dose ranges over the range 1 mR/hr to 1000 mR/hr. Specifically, the licensee possessed an inoperable portable radiation measurement survey instrument, in that, the instrument could not be zeroed according to manufacturer's instructions.

This is a Severity Level IV violation (Supplement VI).

Pursuant to the provisions of 10 CFR 2.201, Metropolitan Hospital, Inc., (Licensee) is hereby required to submit a written statement or explanation to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, within 30 days of the date of this Notice of Violation and Proposed Imposition of Civil Penalty (Notice). This reply should be clearly marked as a "Reply to a Notice of Violation" and should include for each alleged violation: (1) admission or denial of the alleged violation, (2) the reasons for the violation if admitted, and if denied, the reasons why, (3) the corrective steps that have been taken and the results achieved, (4) the corrective steps that will be taken to avoid further violations, and (5) the date when full compliance will be achieved. If an adequate reply is not received within the time specified in this Notice, an order or a Demand for Information may be issued as to why the license should not be modified, suspended, or revoked or why such other action as may be proper should not be taken. Consideration may be given to extending the response time for good cause shown. Under the authority of Section 182 of the Act, 42 U.S.C. 2232, this response shall be submitted under oath or affirmation.

Within the same time as provided for the response required above under 10 CFR 2.201, the Licensee may pay the civil penalty by letter addressed to

the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, with a check, draft, money order, or electronic transfer payable to the Treasurer of the United States in the amount of the civil penalty proposed above, or the cumulative amount of the civil penalties if more than one civil penalty is proposed, or may protest imposition of the civil penalty in whole or in part, by a written answer addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission. Should the Licensee fail to answer within the time specified, an order imposing the civil penalty will be issued. Should the Licensee elect to file an answer in accordance with 10 CFR 2.205 protesting the civil penalty, in whole or in part, such answer should be clearly marked as an "Answer to a Notice of Violation" and may: (1) deny the violation listed in this Notice in whole or in part, (2) demonstrate extenuating circumstances, (3) show error in this Notice, or (4) show other reasons why the penalty should not be imposed. In addition to protesting the civil penalty in whole or in part, such answer may request remission or mitigation of the penalty.

In requesting mitigation of the proposed penalty, the factors addressed in Section VI.B.2 of 10 CFR Part 2, Appendix C, should be addressed. Any written answer in accordance with 10 CFR 2.205 should be set forth separately from the statement or explanation in reply pursuant to 10 CFR 2.201, but may incorporate parts of the 10 CFR 2.201 reply by specific reference (e.g., citing page and paragraph numbers) to avoid repetition. The attention of the Licensee is directed to the other provisions of 10 CFR 2.205 regarding the procedure for imposing a civil penalty.

Upon failure to pay any civil penalty due which subsequently has been determined in accordance with the applicable provisions of 10 CFR 2.205, this matter may be referred to the Attorney General, and the penalty, unless compromised, remitted, or mitigated, may be collected by civil action pursuant to Section 234c of the Act, 42 U.S.C. 2282c.

The response noted above (Reply to Notice of Violation, letter with payment of civil penalty, and Answer to a Notice of Violation) should be addressed to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555 with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region II, Atlanta, Georgia.

Dated at Atlanta, Georgia
this 12th day of May 1993