

DAN COATS  
INDIANA

COMMITTEES:  
ARMED SERVICES  
LABOR AND HUMAN  
RESOURCES

RICHARD G. LUGAR  
INDIANA

COMMITTEES:  
AGRICULTURE  
FOREIGN RELATIONS

## United States Senate

WASHINGTON, DC 20510-1403

October 23, 1992

Mr. Dennis K. Rathbun  
Director, Congressional Affairs  
U.S. Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, D. C. 20852

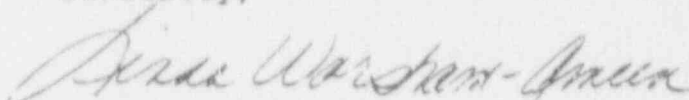
Dear Mr. Rathbun:

Senators Richard G. Lugar and Dan Coats recently received the enclosed correspondence from James E. Duncan, M.D. requesting immediate assistance. Due to the nature of the inquiry, we are forwarding it to you for active consideration.

After you have had the opportunity to review this matter, a response to Senators Lugar and Coats, to my attention, would be appreciated. The address of our Indiana Office is 1180 Market Tower, 10 West Market Street, Indianapolis, Indiana 46204-2964, telephone (317) 226-5555 or FAX (317) 226-5508. It is not necessary to forward a copy of your response to the Washington, D.C. offices.

Thank you for your attention to this matter.

Sincerely,



Linda Worsham-Ameen  
Special Assistant to  
U.S. Senators Richard G. Lugar  
and Dan Coats

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PDR PR  
171 57FR18095 PDR

1180 MARKET TOWER  
10 W. MARKET STREET  
INDIANAPOLIS, IN 46204-2964  
(317) 226-5555

**DZIABIS, GIFFORD & DUNCAN - PATHOLOGISTS, P.C.***Diplomates of the American Board of Pathology (C.P.-P.A.)*

Wabash County Hospital  
710 N. East Street  
Wabash, IN 46992  
Hospital: 563-3131, Ext: 298  
219-563-7132

October 19, 1992

Senators Coates & Lugar  
1180 Market Tower  
10 West Market Street  
Indianapolis, Indiana 46204

Dear Senators:

I am having much difficulty in dealing with the Nuclear Regulatory Commission. I would greatly appreciate any assistance you can give me in this matter.

In 1991 I held a Materials License at Dukes Memorial Hospital, Peru, Indiana and Wabash County Hospital, Wabash, Indiana. I had held the license for several years, but the license was never used in our Nuclear Medicine Practice because we did not need it. All of our Nuclear Medicine Practice activities were conducted under the institutional N. R. C. Licenses held by each hospital. Each hospital was inspected several times by N. R. C. under the hospital licenses and nothing was ever said about my old license during these inspections.

Unbeknownst to me, in 1991 the N. R. C. planned to begin billing annual fees for all materials licenses. I had even forgotten I had my old license and N. R. C. did not properly notify me that they would be billing for these licenses. All of a sudden, after the date by which I had to terminate my license or be charged the annual fee, I received a certified mail final notice for \$3,500.00. I wrote a letter of appeal and heard nothing. Early in 1992, I was told by my technician that I should file a form for termination of my license with N. R. C. . I did this and they terminated the license in early 1992.

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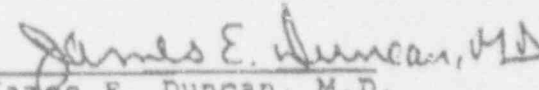
This October I received a Collection Agency bill for nearly \$5,000.00 for the 1991 N. R. C. billing, interest and fees. At about the same time, I received a 1992 N. R. C. billing for nearly \$5,000.00. N. R. C. didn't even know that my license had been inactivated in early 1992. They have deleted the 1992 billing.

I have spent countless hours trying to right this wrong and I feel I have been trapped in a bureaucratic maze. Ms. Glenda Jackson has been very nice to deal with at N. R. C., but she said she had no authority to deal with the 1991 problem that I continue to experience. Ms. Jackson advised me to write a letter of appeal to N. R. C. and I did do this. They are to render a decision in my case in the very near future. I vacillated as to whether to ask for congressional help in this case. I have come to the conclusion that the next N. R. C. decision is probably final and I should get all the help I can now. I am enclosing my letter of appeal to N. R. C. for your perusal. If you have any questions please feel free to call me at Area 317 - 384-7728.

In summation, I was not properly notified by Certified Mail that I would be charged a fee for my license, while my final bill after I could have terminated my license was sent by Certified Mail. My license was never used at either hospital and even though N. R. C. inspected each facility several times while I had the license, they always inspected under the hospital licenses during these visits. Each hospital has paid an annual fee to N. R. C. for the licenses that my partners and I practice under. For me to pay another fee for a totally unused and duplicating license at these facilities would be double billing and financially punitive to me.

Again, I would greatly appreciate any timely assistance you can provide me in this matter.

Sincerely,

  
James E. Duncan, M.D.

October 6, 1992

James E. Duncan, M.D.  
R.R.#1 Box 294D  
LaFontaine, Indiana 46940

Ms. Glenda Jackson  
N. R. C. Office of Controller  
License Fee & Debt Collection Branch  
Washington, D. C. 20555

Dear Ms. Jackson:

I am writing this appeal in response to your suggestion that I do so.

In 1987, in response to a February 19, 1987 vague communication by N.R.C. suggesting that in vivo clinical procedures would not be covered on General Licenses, I applied for a Materials License at Dukes Memorial Hospital, Peru, Indiana and Wabash County Hospital, Wabash, Indiana, where my associates and I practice. I did this in order that there would be no interruption in Nuclear Medicine Services to our patients if we could not do these studies on the General License. I was granted the Materials License. In 1988 our group basically ceased providing these services at Wabash County Hospital. We were allowed to continue to perform in vivo studies on the Dukes Memorial Hospital General License. The license I was granted was never used. Each hospital has been inspected several times by N.R.C. and nothing was ever said or done concerning my license. No mention of the license was ever made in an N.R.C. report. I basically forgot that I even had the license. I received no further information concerning this license from anyone.

Then, in October of 1991, my nuclear medicine technologist handed me a certified letter from the N.R.C. License Fee and Debt Collection Branch. It contained a Final Notice AM05540-91, License # 13,24889-01 for \$3,576.02. Notice date was October 8, 1991. This was the first notification that I had received concerning the fact that I still had an active license and that I was expected to pay \$3,500.00 per year to maintain it. I have this week been told that an announcement was made in July 1991 that fees would be charged for licenses, there had been a prior billing for fees and the deadline for terminating licenses had been some time in August 1991. I was totally unaware of this situation until this week. I was not notified prior to the certified letter of October 1991 that I had an active license and I did not receive any billings prior to this date.

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When I received my final notice for 1991, I was very concerned. I called 301-492-7225. A man there told me to write a letter to the License Fee & Debt Collection Branch. I did this and you have said you have a copy of that letter in your files. In this letter I was very clear that I did not wish to maintain my license, I did not think I could legally hold the license and I specifically requested follow-up on your actions on this license. I heard nothing from N.R.C.. No one said I had passed the deadline, I must pay the bill or anything. After no N.R.C. action, my technologist suggested that I file a Certificate of Disposition of Materials in January 1992 and request that the Materials License be terminated. Again, I got no information from N.R.C.. This week, Mr. John Jontz sent me a "fax" of a letter stating that my license had been terminated. I do not have the original letter in my files. October 5, 1992, I got a demand for payment from a collection agency on the 1991 N.R.C. bill which I heard nothing about for a year. My license supposedly terminated in February 1992, and yet last week I got a second notice billing dated September 24, 1992 AM 04560-92 License #13-24889-01 for 1992. It is a second notice. I did not get the first notice and my license has been terminated. Now, I am being billed for another year. Could it be possible that mis-communication caused me to go over the billing deadline in August 1991?

I specifically asked you today if license information concerning fees to be charged and initial billings prior to the August 1991 deadline had been sent by certified mail. You said they were not. Why was the final notice sent by certified mail? I should have been advised by certified mail prior to being liable for license fees that I needed to make a decision on my license.

I feel that through no fault of my own, I have been placed in an embarrassing, damaging and costly position by a bureaucratic "catch 22". If N.R.C. doesn't know my license was terminated in 1992, how can it maintain I was properly notified in 1991 prior to the date for mandatory payment of license fees? I assure you, I was not made aware of my situation with my license prior to the deadline. My actions after the final notice for 1991 make this quite clear.

You did state in our telephone conversation of October 5, 1992, that you were deleting the 1992 billing to me. I thank you for that.

Please try to view this situation from my perspective. I have not tried to deceive or defraud anyone. The Materials License was never used. I was not given a proper notice in order that I could respond appropriately prior to the date that fees would be charged for licenses.

Copies of pertinent documents are enclosed.

Sincerely,





CONGRESSIONAL CORRESPONDENCE SYSTEM  
DOCUMENT PREPARATION CHECKLIST

This checklist is to be submitted with each document (or group of Qs/As) sent for filing into the CCS.

1. BRIEF DESCRIPTION OF DOCUMENT(S) Senator Lugar's Coats
2. TYPE OF DOCUMENT ☒ Correspondence ☐ Hearings (Qs/As)
3. DOCUMENT CONTROL ☐ Sensitive (NRC Only) ☐ Non-sensitive
4. CONGRESSIONAL COMMITTEE and SUBCOMMITTEES (if applicable)

\_\_\_\_\_ Congressional Committee  
\_\_\_\_\_ Subcommittee

5. SUBJECT CODES

- (a) \_\_\_\_\_  
(b) \_\_\_\_\_  
(c) \_\_\_\_\_

6. SOURCE OF DOCUMENTS

- (a) \_\_\_\_\_ 5520 (document name) \_\_\_\_\_  
(b) ☒ Scan- (c) ☒ Attachments  
(d) \_\_\_\_\_ Rekey (e) \_\_\_\_\_ Other \_\_\_\_\_

7. SYSTEM LOG DATES

- (a) 12/2/92 Date OCA sent document to CCS  
(b) \_\_\_\_\_ Date CCS receives document  
(c) \_\_\_\_\_ Date returned to OCA for additional information  
(d) \_\_\_\_\_ Date resubmitted by OCA to CCS  
(e) \_\_\_\_\_ Date entered into CCS by \_\_\_\_\_  
(f) \_\_\_\_\_ Date OCA notified that document is in CCS

8. COMMENTS

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