

February 4, 1999

Docket No. 030-03031
Control No. 126302

License No. 37-03420-01

Mark T. Bateman
President
Episcopal Hospital
Front Street and Lehigh Avenue
Philadelphia, PA 19125-1098

Dear Mr. Bateman:

This refers to your letter dated November 30, 1998 describing the proposed transfer of control of your licensed activities to Temple University Health System, Inc.(TUHS). From your letter, we understand that this transfer will not result in any change to the licensed name, location of use, materials, persons using licensed material, or persons responsible for radiation safety at the licensed facility.

Based on the above understandings, we have no objection to this transfer. Future changes in the licensed name, use, location, persons responsible for licensed material require submission of a request to amend the license. NRC approval must be received prior to implementation of the proposed change.

Thank you for your cooperation in this matter.

Sincerely,

Original signed by Michelle Beardsley

Michelle Beardsley
Health Physicist
Nuclear Materials Safety Branch 1
Division of Nuclear Materials Safety

cc:

Leon Malmud, M.D., President, TUH
Lily Lodhi, Ph.D., Radiation Safety Officer, TUHS

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M. Bateman
Episcopal Hospital

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OFFICE	DNMS/RI	N	DNMS/RI				
NAME	MBeardsley						
DATE	02/04/99		02/ /99		02/ /99		02/ /99

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EPISCOPAL HOSPITAL

100 East Lehigh Avenue • Philadelphia, PA 19125-1098 • (215) 427-7000

November 30, 1998

United States Nuclear Regulatory Commission
475 Allendale Road
King of Prussia, PA 19406
Attention: Michelle Beardsley

Re: Change of Ownership/Control of Episcopal Hospital
License #37-03420-01

Dear Ms. Beardsley:

Reference is made hereby to the above-referenced potential change of control or ownership of Episcopal Hospital ("EH"), a Pennsylvania non-profit corporation which owns and operates the hospital likewise known as Episcopal Hospital (the "Hospital"), in which Temple University Health System, Inc. ("TUHS") shall become the sole corporate member of EH in a transaction (the "Transaction") to occur on, or about December 1, 1998. In response to your facsimile transmission of November 24, 1998 to Christine Dutton, Esquire, counsel for TUHS, we hereby provide the following information (lettered paragraphs below correspond to those in your document):

- A. The name of the licensed organization, Episcopal Hospital, will not change.
- B. There are no planned changes in personnel at the Hospital having control over licensed activities or any changes in personnel named in the license such as the radiation safety officer, authorized users, or other person identified in previous license applications who is responsible for radiation safety and use of licensed material. The corporate officers after the Transaction of EH, in addition to current officers Mark T. Bateman (Executive Director) and Meryle Twersky (Secretary; will become Assistant Secretary), will be Leon S. Maimud, M. D. (President), Robert Lux (Treasurer) and Beth Koob (Secretary). John Cookinham, current CFO of EH, will remain in such capacity.
- C. Pursuant to the terms of the Transaction, EH shall amend its Articles of Incorporation to change its status from a Pennsylvania non-member non-profit corporation to a Pennsylvania member non-profit corporation, and TUHS shall then become the sole corporate member of EH. There is no transfer of any shares of stock or assets of, or any merger or consolidation involving EH.
- D. There are no planned changes in the organization, location, facilities, storage or uses of any licensed materials, equipment or procedures.
- E. There will be no changes in the use, possession or storage of licensed material.

United States Nuclear Regulatory Commission
November 30, 1998
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- F. TUHS agrees to abide by all constraints, conditions, requirements, commitments and representations identified in the existing license.
- G. Both EH and TUHS agree to the change in ownership or control of licensed material and activity, and the conditions of transfer, and TUHS has been made aware of all the inspection items and possible resulting enforcement actions.

Sincerely,

Episcopal Hospital

By: Mark T. Bateman
Mark T. Bateman
President

Temple University Health System, Inc.

By: Leon S. Malmud
Leon S. Malmud, M.D.
President

cir

U. S. Nuclear Regulatory Commission		Date: 11-27-98
Telephone or Verbal Conversation Record		Time:
<input type="checkbox"/> Incoming Call <input checked="" type="checkbox"/> Outgoing Call <input type="checkbox"/> Visit		
Person Calling: Michelle Beardsley <i>MB</i>	Office: USNRC Region I	Phone #: (610) 337-6942
Person Called: Chris Dutton, Esq.	Office:	Phone #:
Conversation		
Subject: Episcopal Hospital Docket No. 030-03031		License No. 37-03420-01 Control No. 126302
Summary: I faxed to Ms. Dutton the questions posed in IN 89-25, Rev. 1 regarding the possible change in control of the above license.		
Referred to:		
Action Requested: Submit response to the above.		
Action Taken:		

OFFICE OF THE
GENERAL COUNSELUNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

030-03031

November 24, 1998

MEMORANDUM TO: A. Randolph Blough, Director
Division of Nuclear Materials Safety
Region I

FROM: Stuart A. Treby *Stuart A. Treby*
Assistant General Counsel for
Rulemaking and Fuel Cycle

SUBJECT: EPISCOPAL HOSPITAL - CHANGE OF CONTROL OVER
BYPRODUCT MATERIALS LICENSE

You have requested that the Office of the General Counsel provide advice as to whether an acquisition Agreement between a licensee and another entity constitutes a change of control under AEA section 184 and 10 CFR 30.34(b). Our view is that the information provided by the transferee indicates that the transaction constituted a change of control requiring the NRC's prior consent. However, it does not appear that a license amendment will be necessary.

Background

The licensee/transferor is a Pennsylvania non-profit corporation ("Corporation") which owns and operates an acute care facility known as Episcopal Hospital. The transferee, Temple University Health System, Inc. (TUHS), is a holding company, wholly owned by Temple University - of the Commonwealth System of Higher Education ("Temple"). Temple formed TUHS to own or control a number of subsidiaries engaged in health care activities.

TUHS and the Corporation have executed an Agreement, to be effective December 1, 1998. The result of the Agreement is that TUHS will acquire Episcopal Hospital, and become the sole member of the Corporation. Under the terms of the Agreement, the Corporation will continue to own and operate Episcopal Hospital. The only changes that occur are to the Corporation's governing structure, as follows:

- The Corporation's articles of incorporation will be amended to convert the Corporation from a non-member non-profit to a member non-profit corporation.
- TUHS will become the sole member of the Corporation as of December 1, 1998.

CONTACTS: Stephen H. Lewis, OGC
(301) 415-1684
Brooke D. Poole, OGC
(301) 415-2490

ATTORNEY-CLIENT INFORMATION
LIMITED TO THE NRC'S USE UNLESS THE COMMISSION DETERMINES OTHERWISE

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126302

- TUHS will have the power to elect seven of eleven directors of the Corporation. (Four will be nominated by the Corporation's pre-acquisition Board.)
- The hospital's name will not be changed, but will be identified as an affiliate of TUHS on all public signs, stationery and forms.

Discussion

Control over licensed activities can be construed as the authority to decide when and how that license will be used. A change of ownership may be an example of a change of control, depending on whether the authority over the license has transferred from one person to another. The central issue is whether the authority over the license has changed. This encompasses legal changes in control of the corporate structure of the licensee, as well as changes in control over a licensee's radiation safety program.

In the instant situation, OGC's view is that a change of control has occurred, because Temple, through TUHS, now has ultimate authority over the conduct of the licensed activities at Episcopal Hospital, even though the information provided indicates that there has been no change in the personnel who control the daily operations of the licensed activities. Temple is empowered to decide when and how the license will be used; the transfer of ownership, combined with Temple's managerial authority over the Board of Directors, allows Temple to determine the policies of Episcopal Hospital.

Temple/TUHS did not address certain issues in its notification, including abiding by commitments and representations made to the NRC by the Corporation, and providing financial assurance for decommissioning. The NRC should request that Temple/TUHS provide information in response to the questions posed in IN 89-25, Rev. 1 before approving the change of control.

The information provided indicates that the license will remain in the name of Episcopal Hospital. Accordingly, a license amendment is not required.

cc: Susan Greene
John Pelchat
Brad Fewell
Dave Everhart

**NOTE: ATTORNEY-CLIENT INFORMATION
LIMITED TO THE NRC UNLESS THE COMMISSION DETERMINES OTHERWISE**

This is to acknowledge the receipt of your letter/application dated

11-04-98, and to inform you that the initial processing which includes an administrative review has been performed. 37-03420-A

☒ *Amend/No Hf.* There were no administrative omissions. Your application was assigned to a technical reviewer. Please note that the technical review may identify additional omissions or require additional information.

☐ Please provide to this office within 30 days of your receipt of this card

A copy of your action has been forwarded to our License Fee & Accounts Receivable Branch, who will contact you separately if there is a fee issue involved.

Your action has been assigned **Mail Control Number** 126302.
When calling to inquire about this action, please refer to this control number.
You may call us on (610) 337-5398, or 337-5260.

LAW OFFICES

WOLF, BLOCK, SCHORR AND SOLIS-COHEN LLP

212 LOCUST STREET
SUITE 300
HARRISBURG, PA 17101-0213(717) 237-7160
FACSIMILE: (717) 237-7161CHRISTINE S. DUTTON
DIRECT DIAL: (717) 237-7163
E-MAIL: CDUTTON@WOLFBLOCK.COM

November 4, 1998

Thomas K. Thompson
Senior Health Physicist
NMS, Safety Branch I
U.S.N.R.C. Region I
476 Allendale Road
King of Prussia, PA 19406**RE: Episcopal Hospital**
Byproduct Materials License No. 37-03420-01
Proposed Transaction

Dear Mr. Thompson:

The purpose of this letter is to notify the Nuclear Regulatory Commission ("Commission") of a proposed transaction involving Episcopal Hospital, a Pennsylvania non-profit corporation (the "Corporation") which currently holds a byproduct materials license, and Temple University Health System, Inc. ("TUHS"). Pursuant to this letter, on behalf of our client TUHS, we are requesting a determination that since the proposed transaction described herein does not constitute a change in the legal entity holding the license, an amendment to the byproduct materials license will not be required.

This notice is provided pursuant to 10 C.F.R. § 30.34(b).

The Parties

The Corporation is a non-profit corporation which owns and operates an acute care facility known as "Episcopal Hospital," located at 100 East Lehigh Avenue, Philadelphia, which provides services to North Central and Lower Northeast Philadelphia.

TUHS is a Pennsylvania non-profit corporation of which Temple University - of The Commonwealth System of Higher Education ("Temple") is the sole member. TUHS was formed by Temple to be the holding corporation that owns or controls a number of subsidiaries through which TUHS operates its various health care activities.

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NOV - 6 1998

The Transaction

TUHS and the Corporation have executed an Agreement by which TUHS agrees to become the sole member of the Corporation upon the satisfaction of certain conditions. Under the terms of the agreement, the Corporation will continue to own and operate Episcopal Hospital. The only effect the proposed transaction will have on the Corporation's current corporate structure is that the Corporation's articles of incorporation will be amended to convert the Corporation from a non-member non-profit corporation to a member non-profit corporation, and that TUHS will become the sole member of the Corporation as of the effective date of the transaction.

As of and after the effective date, the Corporation will remain a non-profit corporation subsisting under the laws of the Commonwealth and will retain all of its assets, including Episcopal Hospital, and all of its contractual obligations and other liabilities; there will be no purchase, sale or transfer of operating assets or real estate or any assignment of contracts or other liabilities to another entity by the Corporation in connection with this transaction.

As the sole member of the Corporation, TUHS will have the power to elect a majority of the directors of the Corporation. The Corporation's Board of Directors (the "Board") will consist of eleven (11) members, four (4) of which initially will be nominated by the Corporation's pre-acquisition Board, and the remaining seven (7) of which will be appointed by TUHS. The hospital will continue to be known as "Episcopal Hospital," but will be identified as an affiliate of TUHS on all public signs, stationery and forms. The Corporation's executive officers will remain the same.

The Commission's regulations require licensees to provide notification of a transfer of control of any license to any person. We request that you confirm with us that, because the Corporation will at all times continue to own and operate Episcopal Hospital, the above-described transaction does not constitute a transfer of control of the license to any other entity and that therefore no amendment to the license or other action is required. A December 1, 1998 effective date for the transaction is contemplated and we request confirmation prior to that date.

Thomas K. Thompson
November 4, 1998
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If you have any questions, please do not hesitate to call me at your convenience at (717) 237-7163.

Very truly yours,



Christine S. Dutton
For WOLF, BLOCK, SCHORR and SOLIS-COHEN LLP

CSD/jlg

cc: Beth C. Koob, Esq.
John M. Coogan, Jr., Esq.
Carl E. Esser, Esq.
Mr. Mark Bateman

BETWEEN:

License Fee Management Branch, ARM
and
Regional Licensing Sections

: Program Code: 02120
: Status Code: 0
: Fee Category: 7C
: Exp. Date: 20051130
: Fee Comments: _____
: Decom Fin Assur Req'd: N
:

LICENSE FEE TRANSMITTAL

A. REGION

1. APPLICATION ATTACHED

Applicant/Licensee: EPISCOPAL HOSPITAL
Received Date: 981124
Docket No: 3003031
Control No.: 126302
License No.: 37-03420-01
Action Type: Notifications

2. FEE ATTACHED

Amount: _____
Check No.: _____

3. COMMENTS

Signed _____
Date _____

Brown R. J.
11/25/98

B. LICENSE FEE MANAGEMENT BRANCH (Check when milestone 03 is entered /__/)

1. Fee Category and Amount: _____

2. Correct Fee Paid. Application may be processed for:

Amendment _____
Renewal _____
License _____

3. OTHER _____

Signed _____
Date _____