



CHIEF FINANCIAL
OFFICER

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 7, 2021

Ms. April Johnson
Director of Operations
Island Heart Care, LLC
75-167 Hualalai Road
Kailua Kana, Hawaii 96740

Dear Ms. Johnson:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your email, which was dated May 15, 2021, and further supplemented by your email dated June 4, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21168A036). In the emails, you requested a reduction of the annual fee on Invoice No. LFB 21-0142, Docket No. 03038678, related to the fiscal year (FY) 2021 annual fee.

In your emails, you indicate that in 2018 your business closed its location at 75-167 Hualalai Road because the rural island community could not support the needed flow to continue nuclear medicine services. In addition, you thought that if your nuclear medicine license was not renewed it would be terminated and the termination process was not brought to your attention and you did not know to examine it. You also state that the renewal fee was due because the termination process had not been completed or even started at that point and when the delinquent notice was received you notified the representative that you were not renewing the license because you were no longer providing nuclear medicine services. After 2 years, you were able to work with the NRC to complete the termination process.

Finally, you state that the pandemic has created great financial strain on Island Heart Care and although it is an essential business and remained open, patient enrollment proved extremely difficult which caused financial injury with reduced income as much as 80 percent. You also state that the NRC is absorbing the Medicare reimbursements for services that are not in use and closed and without those funds additional financial hardship is causing strain. You are requesting the NRC to waive the annual fee due to the above circumstances.

The NRC's regulations specify when an annual fee may be prorated upon termination of a materials license. This information is set forth in Footnote 1 of 10 CFR 171.16 and 10 CFR 171.17. Footnote 1 of 10 CFR 171.16 provides as follows:

Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1 of the current FY, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license,

downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of §171.17. . .

Based on the provision above, when you hold a materials license during the current FY, fees are incurred irrespective of whether licensed materials are in use. The proration provision in 10 CFR 171.17(b)(2) provides that the “annual fee will be prorated for licenses for which a termination request . . . has been received on or after October 1 of a FY *on the basis of when the application for termination . . . is received* by the NRC provided the licensee permanently ceased licensed activities during the specified period. Licenses for which applications for termination . . . are filed during the period October 1 through March 31 of the FY are assessed one-half the annual fee for the applicable category(ies) for that FY.” The federal government operates on a FY calendar, which begins on October 1 and ends on September 30 (e.g., FY 2021 started on October 1, 2020, and will end on September 30, 2021). Consequently, under the referenced regulations, Island Heart Care, LLC needed to file for termination of its license or for a possession-only license by October 1, 2020 for it not to be charged an FY 2021 annual fee, or by March 31, 2021, to be charged a prorated annual fee for Invoice No. LFB 21-0142, unless the criteria for a fee exemption are met. Your termination request was not received by the NRC until April 27, 2021 (ADAMS Accession No. ML20245E512) and supplemented by your October 21, 2020 submission of your NRC Form 314 “Disposition of Materials” (ADAMS Accession No. ML21159A237). Therefore, Island Heart Care, LLC is not eligible for proration under these regulations and is responsible for the full FY 2021 annual fee.

We also considered whether the NRC could grant an exemption that would allow you to pay a reduced annual fee under the provisions in 10 CFR 171.11. However, based on the information provided in your letter, we have determined that you have not met the criteria for the NRC to grant an exemption under 10 CFR 171.11.

As per 10 CFR 15.35(b), a debtor may arrange an installment plan with the NRC for payment of fees if the debtor is unable to pay the invoice in one lump sum. An installment plan is available for up to 36 months, starting from the date on which the installment agreement is entered. Please note that currently all installment agreements require the payment of interest at 1 percent annually and an administrative charge of \$7.00 per period. The NRC provided you with a 20-month installment agreement which you agreed to on July 29, 2021, with the first installment of \$250 paid on August 15, 2021.

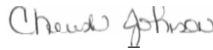
Based on your submission of NRC Form 526 “Certification of Small Entity Status for the Purposes of Annual Fees,” your company has self-certified and we are currently awaiting tax returns for the last 3 completed fiscal years. This information is needed to determine if your company qualifies as a small entity under 1B Small Business with gross receipts of less than \$485,000 over the last 3 completed fiscal years. Until the tax returns are received and small entity status is approved, your company will still be responsible for the balance due on the installment plan which includes interest, penalties, and administrative charges.

A. Johnson

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Please direct any questions regarding the payment plan or settlement of invoice LFB 21-0142 to Ms. Carly Nelson-Wilson of my staff at (301) 415-3479. Please contact Mr. Billy Blaney of my staff at (301) 415-5092 for any fee-related questions.

Sincerely,

re:  Signed by Johnson, Cherish
on 09/07/21

Cherish K. Johnson
Chief Financial Officer

SUBJECT: LETTER TO APRIL JOHNSON, ISLAND HEART CARE, LLC, IN RESPONSE TO A FEE EXEMPTION REQUEST DATED MAY 15, 2021; RESPONSE LETTER, DATED September 7, 2021

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| NAME | WBlaney | JJacobs | JGibbs-Nicholson | CMcCann NLO |
| DATE | 08/11/2021 | 08/11/2021 | 08/11/2021 | 08/26/2021 |
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| NAME | MBlair (JGibbs-Nicholson for) | ARossi (JJacobs for) | RAllwein | JEShay |
| DATE | 08/11/2021 | 08/26/2021 | 08/26/2021 | 08/27/2021 |
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| NAME | LBFicks | CKJohnson | | |
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