



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE RD, SUITE 102
KING OF PRUSSIA, PA 19406-1415

May 11, 2023

EA-22-057

Michael J. Sarrao
Executive Vice President and Secretary
Alecto Healthcare Services Wheeling LLC
101 N. Brand Blvd, Suite 1780
Glendale, CA 91203

SUBJECT: NOTICE OF VIOLATION – ALECTO HEALTHCARE SERVICES WHEELING
LLC - NRC INSPECTION REPORT NO. 03012498/2022001

Dear Michael Sarrao:

This letter refers to the routine inspection of Alecto Healthcare Services Wheeling LLC (Alecto Wheeling or licensee) conducted by the U.S. Nuclear Regulatory Commission (NRC) on April 7, 2022, May 26, 2022, and June 13, 2022, with continued in-office review through February 3, 2023. The purpose of the inspection was to examine Alecto Wheeling's licensed activities as they relate to radiation safety, compliance with the NRC's regulations, and the conditions in the license.

Based on the results of the inspection, the NRC identified three violations of NRC requirements. NRC staff made two attempts to discuss the violations with you during telephonic exit meetings which were scheduled on January 24 and February 3, 2023; however, you failed to attend these meetings. The violations involved the: (1) failure to complete decommissioning in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 30.36(h)(1); (2) failure to control licensed material that was in an unrestricted area and not in storage in accordance with 10 CFR 20.1802; and (3) possession of material not authorized on the NRC license. Specifically, on September 3, 2019, Alecto Wheeling ceased operations and the following year, the facility was sold to the City of Wheeling for eventual repurposing or sale. In letters dated October 2, 2019, and December 17, 2019, Alecto Wheeling submitted radiation surveys and documents confirming the proper disposal of radioactive material that had been possessed at the site. However, these submittals did not include a formal request to terminate the NRC license. Consequently, the NRC staff conducted a routine inspection of the facility in 2022. The NRC inspector found that the licensee was not in control of the facility and also identified two sealed sources (a 0.75 microcurie (μCi) strontium-90 source and a 10 μCi cesium-137 source) as well as a safe contaminated with radium-226. The inspector identified that cesium-137 and radium-226 had not been authorized under Alecto Wheeling's NRC license since December 6, 2008.

Based on the information developed during the inspection, the NRC determined that violations of NRC requirements occurred. The violations are cited in the enclosed Notice of Violation (Notice, Enclosure 1) and the circumstances surrounding them are described in detail in the enclosed NRC Inspection Report No. 03012498/2022001 (Enclosure 2). As described above, the violations involved the failure to properly complete decommissioning, as evidenced by the identification of radioactive material remaining at the site on April 7, 2022, more than 24 months

after the licensee vacated the facility in September 2019. Two of the items of radioactive material were not authorized for ownership or possession by Alecto Wheeling under its NRC license. Additionally, due to Alecto Wheeling leaving the facility, the radioactive material was no longer being controlled by the licensee.

The NRC considers that the decommissioning timeliness requirements are intended to reduce potential risk to the public and environment that may result from delayed decommissioning of inactive facilities and sites. In this case, incomplete decommissioning of Alecto Wheeling's facility resulted in the failure to identify the continued presence of radioactive material Alecto Wheeling was no longer authorized to possess. Because Alecto Wheeling was no longer controlling the facility, there was greater potential for unauthorized access to this material that could have resulted in radiation exposure to members of the public, although there is no indication that unauthorized access to the material occurred. Therefore, the violations are assessed at Severity Level III (SL III) in accordance with the NRC Enforcement Policy. The NRC also considered that the three violations were related to each other and, as such, they are categorized collectively as a SL III problem. The NRC Enforcement Policy can be found on the NRC's website at <http://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.

In accordance with the NRC Enforcement Policy, a base civil penalty in the amount of \$8750 is considered for a SL III problem. Because Alecto Wheeling has not been the subject of escalated enforcement actions within the last two inspections, the NRC considered whether credit was warranted for *Corrective Action* in accordance with the civil penalty assessment process in Section 2.3.4 of the Enforcement Policy. The NRC has concluded that credit is warranted for Alecto Wheeling's corrective actions taken to address the violations. Specifically, upon being informed of the presence of the radioactive material, Alecto Wheeling representatives contacted the City of Wheeling and assumed ownership of the scope of work and obtained a cost estimate from a waste contractor to properly package and dispose of the material. NRC staff observed the packaging and disposal activities occur in May and June 2022. Additionally, on July 29, 2022, Alecto Wheeling submitted to the NRC a request for termination of the NRC license.

Therefore, to encourage prompt and comprehensive correction of violations, and in recognition of the absence of previous escalated enforcement action, after consultation with the Director, Office of Enforcement, I have been authorized not to propose a civil penalty in this case.

Additionally, the NRC received your request for license termination dated July 29, 2022. This will be addressed under separate correspondence.

The NRC has concluded that information regarding: (1) the reason for the violations; (2) the corrective actions that have been taken and the results achieved; and (3) the date when full compliance was achieved is already adequately addressed on the docket in Inspection Report No. 03012498/2022001. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to provide additional information, you should follow the instructions specified in the enclosed Notice.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter, its enclosure, and your response, if provided, will be made available electronically for public inspection in the NRC Public Document Room and from the NRC's Agency-wide Documents Access and Management System (ADAMS), accessible from the NRC Web site at

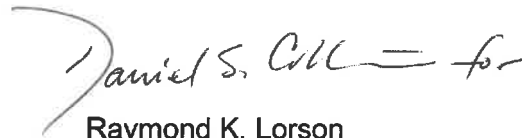
M. Sarrao

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<http://www.nrc.gov/reading-rm/adams.html>. The NRC also includes significant enforcement actions on its Web site at <https://www.nrc.gov/reading-rm/doc-collections/enforcement/actions/>.

If you have any questions concerning this matter, please contact Anne DeFrancisco of my staff at 610-337-5078 or Anne.DeFrancisco@nrc.gov.

Sincerely,

A handwritten signature in black ink that reads "Daniel S. Callahan for". The signature is written in a cursive style with a long horizontal line extending to the right.

Raymond K. Lorson
Regional Administrator

Enclosures:

1. Notice of Violation
2. NRC Inspection Report No. 03012498/2022001

Docket No. 03012498
License No. 47-17282-01

cc w/Encl:
State of West Virginia

SUBJECT: NOTICE OF VIOLATION – ALECTO HEALTHCARE SERVICES WHEELING LLC - NRC INSPECTION REPORT NO. 03012498/2022001 MAY 11, 2023

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	M McLaughlin	A DeFrancisco	R Susko NLO	R McKinley	L Sreenivas	M Burgess
DATE	3/20/23	3/20/23	3/31/23	4/03/23	4/19/23	5/01/23
OFFICE					RI/DRSS	RI/RA <i>DC</i>
NAME					P Krohn	RLorson/DSC for/
DATE					5/08/23	5/11/23

OFFICIAL RECORD COPY

ENCLOSURE 1

NOTICE OF VIOLATION

Alecto Healthcare Services Wheeling LLC
Wheeling, West Virginia

Docket No.: 03012498
License No.: 47-17282-01
EA-22-057

During an NRC inspection conducted on April 7, 2022, May 26, 2022, and June 13, 2022, with continued in-office review through February 3, 2023, three violations of NRC requirements were identified. In accordance with the NRC Enforcement Policy, the violations are listed below:

- A. 10 CFR 30.36(h)(1) requires that licensees shall complete decommissioning of the site as soon as practicable but no later than 24 months following the initiation of decommissioning.

Contrary to the above, from September 3, 2019, to June 13, 2022, Alecto Healthcare Services Wheeling LLC did not complete decommissioning of its site within 24 months following the initiation of decommissioning. Specifically, the licensee terminated its lease and vacated the facility on September 3, 2019. However, on April 7, 2022, a period greater than 24 months from September 3, 2019, the NRC identified radioactive material remaining at the site, indicating that decommissioning was not complete. The material was properly disposed of on June 13, 2022.

- B. 10 CFR 20.1802 requires that the licensee shall control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

Contrary to the above, from September 3, 2019, to June 13, 2022, Alecto Healthcare Services Wheeling LLC did not control and maintain constant surveillance of licensed material that was in an unrestricted area and that was not in storage. Specifically, the licensee terminated the lease and vacated its facility on September 3, 2019. However, in April 2022, the NRC identified one strontium-90 and one cesium-137 sealed source and a radium-226-contaminated safe remaining at the site, in an unrestricted area. Therefore, these materials, which were not in storage, were not under the control of and constant surveillance by the licensee. The materials were properly disposed of on June 13, 2022.

- C. 10 CFR 30.3 states, in part, that no person shall own, possess, or use byproduct material except as authorized in a specific or general license issued in accordance with the regulations in this chapter.

License Condition 6 of NRC License No. 47-17282-01, Amendments 38- 51 authorize the possession of byproduct material, including material permitted by 10 CFR 35.100, 35.200, 35.300 and strontium-90.

Contrary to the above, from August 8, 2017, to June 13, 2022, Alecto Healthcare Services Wheeling LLC owned byproduct material that was not authorized by its specific license. Specifically, the licensee possessed one cesium-137 source and a radium-226-contaminated safe, which were not authorized by the NRC license. The materials were properly disposed on June 13, 2022.

This is a Severity Level III problem (NRC Enforcement Policy Sections 6.3 & 6.7)
The NRC has concluded that information regarding the reason for the violations, the corrective actions taken, and the date when full compliance was achieved, is already adequately addressed on the docket in Inspection Report No. 03012498/2022001. Therefore, you are not required to respond to this Notice unless the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, (EA-22-057)," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region I, 475 Allendale Rd. Suite 102, King of Prussia, PA 19406-1415 within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you respond, your response will be made available electronically for public inspection in the NRC Public Document Room or in the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the public without redaction.

Dated this 11th day of May, 2023.

ENCLOSURE 2


NRC INSPECTION REPORT NO. 03012498/2022001

U.S. NUCLEAR REGULATORY COMMISSION
REGION I

INSPECTION REPORT


Inspection No. 03012498/2022001
Docket No. 030-12498
License No. 47-17282-01
EA No. EA-22-057
Licensee: Alecto Healthcare Services Wheeling LLC
Address: 2000 Eoff Street
Wheeling, WV 26003
Inspection Dates: Onsite April 7, 2022, May 26, 2022, and June 13, 2022
In-office Review through February 3, 2023
Exit Meeting Unsuccessful attempts made January 24 and February 3, 2023

Inspector:


Jonathan Pfingsten
Senior Health Physicist
Medical and Licensing Assistance Branch
Division of Nuclear Materials Safety

5/11/2023
date

Approved By:


Anne DeFrancisco
Branch Chief
Medical and Licensing Assistance Branch
Division of Nuclear Materials Safety

5/11/2023
date

EXECUTIVE SUMMARY

Alecto Healthcare Services Wheeling LLC
NRC Inspection Report No. 03012498/2022001

Ohio Valley Medical Center (OVMC) was a 200+ bed hospital that was issued NRC License No. 47-17282-01 in 1976. The licensee was authorized to possess and use byproduct material for diagnostic and therapeutic medical uses under Title 10 of the Code of Federal Regulations (10 CFR) Part 35 at its facilities in Wheeling, WV. In 2017, control of the hospital (and license) transferred to Alecto Healthcare Services Wheeling LLC (Alecto Wheeling or licensee).

In a letter dated October 2, 2019 (ML22090A037), the licensee sent closeout surveys performed by the consultant Radiation Safety Officer (Ohio Medical Physics Consulting, LLC) to an NRC inspector and license reviewer. In a December 17, 2019, email (ML22090A032), the licensee provided copies of the final destination manifest and confirmation of waste disposal of the materials removed from the facility. The licensee stated in these submittals that they were being provided in support of termination of the NRC license. However, the region did not receive a formal termination request for the license at that time. Ownership of the building the licensee had been leasing was transferred from a holding company to the City of Wheeling a few months later. The city did not possess an NRC license themselves, nor were they leasing the facility to the licensee at the time.

In April 2022, Region I conducted a routine inspection of the facility due to the license remaining active. The inspector identified two sealed sources – a 0.75 μ Ci strontium-90 source and a 10 μ Ci cesium-137 source and a radium-226 contaminated safe that had been missed by Alecto Wheeling's contractor. The cesium-137 and radium-226 had not been authorized for possession under Alecto Wheeling's NRC license since December 6, 2008. Additionally, the cesium-137 source was found by the NRC inspector to be leaking.

The materials were ultimately packaged and shipped for disposal. The facilities were surveyed and wipe tested at various times. The licensee requested the final release of the facilities and termination of the license in a submission dated July 29, 2022.

Based on the above, the NRC identified three violations: (1) failure to complete decommissioning in accordance with 10 CFR 30.36(h)(1); (2) failure to control licensed material that was in an unrestricted area and not in storage in accordance with 10 CFR 20.1802; and (3) possession of material not authorized on the NRC license.

REPORT DETAILS

1. **Organization and Scope of the Program**

a. Program Scope

Ohio Valley Medical Center (OVMC) was a 200+ bed hospital that was issued NRC License No. 47-17282-01 in 1976. The licensee was authorized to possess and use byproduct material for diagnostic and therapeutic medical uses under Title 10 of the Code of Federal Regulations (10 CFR) Part 35 at its facilities in Wheeling, WV.

In 2017, control of the hospital (and license) transferred to Alecto Healthcare Services Wheeling LLC (Alecto Wheeling), a subsidiary of Alecto Healthcare Services (Alecto). Alecto is a California-based company that bought three financially troubled hospitals in West Virginia between 2014 and 2017. By 2020, all three hospitals were closed. Regarding the OVMC, Alecto Wheeling had leased the hospital building from a holding company. In the summer of 2020, that holding company sold the building to the City of Wheeling, which planned on repurposing or selling some structures.

Previously, during an NRC inspection in July 2019, the licensee informed the inspector that they had been seeking a buyer for the facility, but, because none was found, the licensee was considering merging the hospital with another Alecto facility in Ohio and closing one of the sites. The inspector informed Alecto Wheeling of the steps required for decommissioning the facility. The OVMC was subsequently shut down on September 3, 2019.

As of the time of the 2022 inspections, with the licensee no longer operating or leasing OVMC, the licensee was overseen by executives based in California.

b. Observations and Findings

No findings were identified associated with the organization of the licensee.

2. **Review of Licensed Activities**

a. Inspection Scope

On April 7, 2022, the NRC conducted an inspection of the Alecto Wheeling facilities to follow-up on outstanding issues concerning the termination of the license. The scope of the inspection was focused on confirming that all materials had been properly disposed and that the facility had been appropriately released for unrestricted use.

During this site visit, the NRC inspector identified two sealed sources – a 0.75 μ Ci strontium-90 source and a 10 μ Ci cesium-137 source and a radium-226 contaminated safe that had apparently been missed by Alecto Wheeling's contractor. The cesium-137 and radium-226 had not been authorized for possession under Alecto Wheeling's NRC license since December 6, 2008. Additionally, the cesium-137 source was found by the

NRC inspector to be leaking. The licensee did not control the facility for more than two years while the radioactive material remained there. However, the building was controlled by the city and was locked. The sources were secured at the time they were found by the NRC, and there is no evidence of unauthorized access or of any impact from the leaking source. Upon NRC staff arrival, the room was locked and interviews with the maintenance staff revealed no concern for entry into the room. Additionally, NRC surveys revealed no presence of radioactive materials outside the room in question.

Upon being informed of the presence of the radioactive material, the licensee took prompt actions to restore compliance, including initiating communication with the City of Wheeling, assuming ownership of the scope of work, and obtaining a quote from the waste contractor to properly dispose of the materials.

In May 2022, Region I staff observed a contractor analyze and confirm the activity and identity of the materials. The materials were packaged for disposal. The contractor performed surveys for area dose rates, conducted removable contamination wipe tests, and confirmed the sources were properly secured prior to leaving the site. Independent surveys were conducted by the NRC inspector.

In June 2022, Region I staff observed the packages as they were removed from storage, transferred to a contractor, and shipped for final disposal. The contractor confirmed that no additional materials remained onsite. Independent surveys were conducted by the NRC inspector.

On July 29, 2022, the licensee submitted an NRC Form 314 officially requesting termination of the NRC License No. 47-17282-01. While the form incorrectly indicated that no radiation survey was required due to no leaking sources, the licensee's contractor's wipe tests and independent surveys conducted by the NRC provided adequate confidence that the facilities were suitable for release.

b. Observations and Findings

Three violations were identified associated with the (1) failure to complete decommissioning in accordance with 10 CFR 30.36(h)(1); (2) failure to control licensed material that was in an unrestricted area and not in storage in accordance with 10 CFR 20.1802; and (3) possession of material not authorized on the NRC license. These violations have been evaluated by the NRC to be Severity Level III (SL III) violations. This determination was based on consideration that the decommissioning timeliness requirements are intended to reduce potential risk to the public and environment that may result from delayed decommissioning of inactive facilities and sites. In this case, incomplete decommissioning of Alecto Wheeling's facility resulted in the failure to identify the continued presence of radioactive material Alecto Wheeling was no longer authorized to possess. Because Alecto Wheeling was no longer controlling the facility, there was greater potential for unauthorized access to this material that could have resulted in radiation exposure to members of the public. The violations were not assessed at a higher significance because there is no indication that unauthorized access to the

material occurred. The NRC also considered that the three violations were related to each other and, as such, they are categorized collectively as a SL III problem.

The violations are documented in the Notice of Violation enclosed with the letter transmitting this inspection report.

3. Exit Meeting

Unsuccessful attempts to contact the licensee for an exit meeting were made on January 24 and February 3, 2023.

ATTACHMENT

PARTIAL LIST OF PERSONS CONTACTED

Michael Sarrao, Executive Vice-President & Secretary#

Individual present at virtual entrance meeting
No formal exit meeting held

INSPECTION PROCEDURES USED

IP 87130, Nuclear Medicine Programs
IP 87131, Nuclear Medicine Programs, Written Directive Required

LIST OF NRC SURVEY INSTRUMENT USED

Ludlum Model 14-C, serial number 235064
Ludlum Model 2401-P, serial number 285185

LIST OF ACRONYMS USED

CFR: Code of Federal Regulations
IP: Inspection Procedure
NRC: Nuclear Regulatory Commission
OVMC: Ohio Valley Medical Center