



THOMAS HOSPITALS

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January 8, 2024

VIA ELECTRONIC AND OVERNIGHT MAIL

Licensing Assistance Team
Division of Radiological Safety and Security
U.S. Nuclear Regulatory Commission, Region I
475 Allendale Rd., Suite 102
King of Prussia, PA 19406-1415

RE: Licensee Inquiry
Materials License No. 47-17746-01

Dear Licensing Team:

The purpose of this letter (this "Inquiry") is to confirm with the U.S. Nuclear Regulatory Commission ("NRC") that a proposed internal merger, referred to herein and as defined below as this "Reorganization," does not constitute a "transfer of control" or "change of control" as contemplated by 10 C.F.R. §§ 30.34 and 70.36. The proposed Reorganization is more particularly described below, and an organizational chart illustrating the Reorganization (and the relevant entities pre- and post-merger) is attached hereto as **Exhibit A**.

Details relevant to this Inquiry are as follows:

1. Thomas Health System, Inc. ("THS"), is a West Virginia non-profit, tax-exempt corporation.
2. THS's NRC Materials License No. is 47-17746-01.
3. Herbert J. Thomas Memorial Hospital Association d/b/a Thomas Memorial Hospital ("TMH") is a West Virginia non-profit, tax-exempt organization.
4. THS is the corporate parent of TMH, and THS and TMH share the same board members and officers.
5. West Virginia United Health System, Inc. d/b/a West Virginia University Health System ("WVUHS") is a West Virginia non-profit, tax-exempt corporation that is the ultimate parent entity of both THS and TMH.

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6. WVUHS is an NRC known entity, as it is the parent entity to several other NRC licensees.
7. Effective May 1, 2024, THS will merge with and into its subsidiary, TMH, with TMH being the surviving corporation following said internal merger (this “Reorganization”). Following the consummation of the Reorganization, WVUHS will be the direct parent entity of TMH. In preparation for the Reorganization, all THS employees transitioned to TMH on December 24, 2023.

The NRC has previously found that no change of control existed in at least one transaction involving similarly situated licensees, and the NRC uses that transaction as an example to aid change of control determinations. In the NRC Final Report titled Consolidated Guidance About Materials Licenses, NUREG-15556, Volume 15, Rev. 1 (the “Guidance”) (**Exhibit B**), the NRC provides examples of transactions in which it decided whether the transaction involved direct or indirect change of control and explains its rationale for each decision. On page C-5 of the Guidance, in the second example of transactions that did not qualify as a change of control, the NRC describes a transaction in which four licensees were affiliated with the same parent entity, both before and after the transaction consummation (the “Example Transaction”) (**Exhibit C**).

In explaining why the NRC did not view the Example Transaction as involving a change of control, the Guidance states that the personnel associated with the licensees remained the same, and entities involved in the transaction simply incurred a change in corporate status. To wit, the Guidance highlighted the following factors:

- personnel having control over licensed activities (including the radiation safety officer) remained the same;
- the use, possession, location, or storage of licensed materials did not change; and
- the licensee’s facility location, equipment, and procedures did not change.

Furthermore, the Guidance details that, following the Example Transaction, each licensee:

- assumed full liability for facility decontamination;
- agreed to abide by all commitments and representations previously made to the NRC by the licensee in its old corporate form;
- agreed to abide by all constraints, conditions, requirements, representations, and commitments identified in the license; and
- accepted full liability and responsibility for the site.

With regard to the above bulleted points, this Reorganization will be almost identical to the Example Transaction. The licensee’s facilities will not change as a result of the Reorganization.



VIA ELECTRONIC AND OVERNIGHT MAIL
U.S. Nuclear Regulatory Commission, Region I
January 8, 2024
Page 3

Likewise, there will be no changes to the licensee's personnel, equipment, procedures, or the use, possession, location, or storage of the licensed materials. TMH will assume full liability for facility decontamination, accept full liability and responsibility for the site, and abide by all constraints, conditions, requirements, representations, and commitments of THS.

Furthermore, this Reorganization passes the NRC's self-described central issue in determining whether a transaction involves a change of control. Page 5-2 of the Guidance summarizes NRC's determination of whether a change of control has occurred by stating, "[t]he central issue is whether the entity that has the right to exercise authority over the license has changed." In this Reorganization, not only will the entity that has the ultimate right to exercise authority over the license not change on the parent entity level, but the right to exercise authority on the subsidiary level will not change either. WVUHS, the parent entity, will still retain ultimate authority over the licensee. Further, because the same individuals serve as officers and make up the board of directors for both THS and TMH, the exercising authority on the subsidiary level will not change either. In effect, this Reorganization simply amounts to a change in the name of the licensee.

We respectfully seek your confirmation that the Reorganization described in this Inquiry does not constitute a change of control, and therefore, the NRC does not need to provide prior consent to update the licensee for Materials License No. 47-17746-01 from THS to TMH as a result of the Reorganization. Upon confirmation we anticipate requesting an amendment to the Materials License to reflect the anticipated name change.

Please feel free to contact Aaron Alexander, Vice President and General Counsel at (304) 766-3520 or aaron.alexander@wvumedicine.org if you have any questions or require additional information. Thank you for your time.

Sincerely,



J. Gregory Rosencrance, M.D., FACP
President and Chief Executive Officer

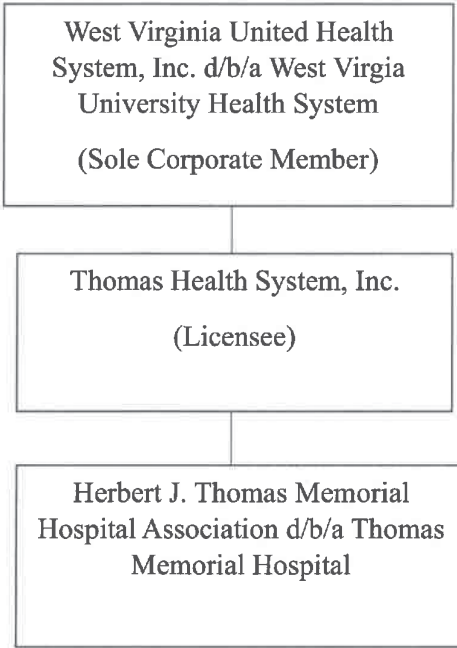
Enclosures

cc: Aaron Alexander
Lindsay Petrosky

EXHIBIT A

TRANSACTION ORGANIZATIONAL CHART

Pre-Transaction Structure



Post-Transaction Structure

