



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

July 2, 2024

Vance M. Jackson,
President and Chief Executive Officer
Davis Memorial Hospital
dba Davis Medical Center
P.O. Box 1484
Elkins, West Virginia 26241

**SUBJECT: DAVIS MEMORIAL HOSPITAL, ACCEPTANCE OF NOTIFICATION OF
INDIRECT TRANSFER OF CONTROL, MAIL CONTROL NO. 639970**

Dear Vance M. Jackson,

By letter dated March 8, 2024 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML24073A027), Davis Memorial Hospital, dba Davis Medical Center, submitted to the U.S. Nuclear Regulatory Commission (NRC) a request, after-the-fact, for written consent of an indirect transfer of control of NRC Materials License No. 47-24864-01. In accordance with Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and 10 CFR 30.34, the NRC now consents to the transfer as it occurred. This consent is being granted after-the-fact; consistent with 10 CFR 30.34, the licensee's failure to request consent from the NRC, in writing, ahead of the indirect transfer was identified as a violation of NRC requirements in the NRC's letter dated February 14, 2024 (ADAMS Accession No. ML24046A033).

Davis Memorial Hospital is authorized by the NRC for the possession and use of byproduct material under Part 30. By letter dated March 8, 2024, Davis Memorial Hospital requested written consent to the indirect transfer of control of its license from the NRC. Because the license was issued under 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," the NRC must find that the transfer is in accordance with the provisions of the AEA and, if so, must give its consent in writing prior to the transfer (see note above regarding the disposition of this noncompliance), in accordance with Section 184 of the AEA and 10 CFR 30.34(b). Additionally, the NRC staff reviewed the indirect transfer of control request using the guidance in NUREG-1556, Volume 15, Revision 1, "Consolidated Guidance About Materials Licenses – Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses," dated June 2016.

10 CFR 30.34(b) states:

- (1) No license issued or granted pursuant to the regulations in [parts 30] through 36, and 39 nor any right under a license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the provisions of the Act and shall give its consent in writing.

- (2) An application for transfer of license must include:
- (i) The identity, technical and financial qualifications of the proposed transferee; and
 - (ii) Financial assurance for decommissioning information required by [10 CFR] 30.35.

As described in ADAMS Package Accession No. ML24073A026, the indirect transfer of control resulted from the Member Substitution Agreement by and between Monongalia Health System, Inc., dba Vandalia Health North (transferee), and Davis Health System, Inc. (the sole corporate member of Davis Memorial Hospital, holder of NRC No. 47-24864-01). The transaction closed on December 1, 2023. Because the transfer of control occurred on December 1, 2023, and the request was dated March 8, 2024, this request for approval of an indirect license transfer was made after-the-fact and without having received prior written consent from the Commission. The NRC staff finds that the licensee request adequately provides a complete and clear description of the transaction, as it occurred, consistent with 10 CFR 30.34(b) and NUREG-1556, Vol. 15, Rev. 1, Chapter 5 and Appendix E. The sufficiency of the description is evaluated below.

The request for indirect transfer of ownership was posted for public comment on the NRC website for 30 days in accordance with 10 CFR Part 2, Subpart M and as described in NRC's Regulatory Issue Summary 2014-08, Revision 1. No comments were received from members of the public.

Based on the information provided, Davis Memorial Hospital is not required to have financial assurance for decommissioning because of the types and amount of material authorized in its license.

Further, the NRC conducted an inspection of Davis Memorial Hospital on December 20, 2023, at its licensed facility in Elkins, West Virginia. The NRC identified three Severity Level IV violations. The three violations identified during this inspection involved the failures to: (1) notify and receive consent in writing from the Commission prior to an indirect transfer of control in accordance with 10 CFR 30.34(b)(1); (2) reduce the dose that an individual may be allowed to receive in the current year by the amount of occupational dose received while employed by any other person in accordance with 10 CFR 20.1201(f); and (3) control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage in accordance with 10 CFR 20.1802.

Additionally, as described in its request, Monongalia Health System, Inc., commits that it:

- A. will not change the radiation safety officer listed in the NRC license;
- B. will not change the personnel involved in licensed activities;
- C. will not change the locations, facilities, and equipment authorized in the NRC license;
- D. will not change the radiation safety program authorized in the NRC license; and
- E. will keep regulatory required surveillance records and decommissioning records.

Based on these commitments, the NRC staff finds that the licensee request adequately documents the constraints, license conditions, requirements, representations, and commitments made by the transferee, consistent with 10 CFR 30.34(b) and NUREG-1556, Vol. 15, Rev. 1, Chapter 5 and Appendix E.

Monongalia Health System, Inc. is a known entity because they are the parent company to several other NRC licenses (as identified by the NRC in a letter dated April 11, 2024 (ADAMS

Accession No. ML24179A019) and confirmed in the response letter dated May 9, 2024 (ADAMS Accession No. ML24135A258). The NRC staff used the guidance provided by the NRC's Office of Nuclear Material Safety and Safeguards' "Checklist to provide a basis for confidence that radioactive materials will be used as specified on the application," January 29, 2019, revision. The purpose of this checklist is for the NRC to obtain reasonable assurance from new license applicants or NRC licensees transferring control of licensed activities that the licensed material will be used for its intended purpose and not for malevolent use. Therefore, for security purposes, Monongalia Health System, Inc. is considered to be a known entity because it currently indirect controls at least eight other NRC licenses.

An environmental assessment for this action is not required because this action is categorically excluded under 10 CFR 51.22(c)(21).

The staff has reviewed the request for an indirect transfer of control of NRC License No. 47-24864-01. The NRC staff finds that the indirect transfer of control is in accordance with Section 184 of the AEA and 10 CFR 30.34(b) and consents to the transfer.

Future changes in the licensee's name, licensed use, licensed materials, licensed location, persons responsible for licensed material, or other changes to the corporate organizational structure require submission of a request to amend the license or a request to transfer the license. NRC approval must be received prior to implementation of any such proposed change.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice and Procedure," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's ADAMS. ADAMS is accessible from the NRC website at <https://www.nrc.gov/reading-rm/adams.html>. If you have any questions regarding this letter, please contact Jason vonEhr at (610) 337-5256 or via electronic mail at Jason.vonEhr@nrc.gov.

Thank you for your cooperation in this matter.

Sincerely,

Jason vonEhr, Senior Health Physicist
Medical and Licensing Assistance Branch
Division of Nuclear Materials Safety
Region I

License No. 47-24864-01
Docket No. 030-29484
Mail Control No. 639970

cc:

Joseph Dibacco, Director of Radiology, Davis Memorial Hospital
Patrick Brown, M.D., Radiation Safety Officer
Edward Phillips, Chief Legal Officer and Corporate Secretary, Vandalia Health North
Apyl Strother, System Director Corporate Compliance and Privacy

DAVIS MEMORIAL HOSPITAL, ACCEPTANCE OF NOTIFICATION OF INDIRECT TRANSFER OF CONTROL, MAIL CONTROL NO. 639970 DATED JULY 2, 2024

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