

UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of

John Urban

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IA 99-053

CONFIRMATORY ORDER REQUIRING NOTICE TO CERTAIN EMPLOYERS
AND PROSPECTIVE EMPLOYERS AND NOTIFICATION OF NRC OF
CERTAIN EMPLOYMENT IN NRC-LICENSED ACTIVITIES
(EFFECTIVE IMMEDIATELY)

I

Mr. John Urban is currently involved in NRC-licensed activities as an employee at MidMichigan Medical Center, Midland, Michigan. MidMichigan Medical Center (MMC or Licensee) is the holder of Byproduct Material License No. 21-01549-02 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 35 and last renewed on February 3, 1999. The license authorizes possession and use of radioactive material for medical purposes in accordance with the conditions specified therein.

II

On June 1, 1999, the Licensee reported a misadministration involving a patient undergoing treatment for thyroid carcinoma who received approximately 100 millicuries of iodine-131 instead of 150 millicuries as prescribed. The misadministration occurred on May 24, 1999, when the chief technologist, Mr. John Urban, administered a 103 millicurie dose of iodine-131 without first verifying that the dosage was in accordance with the written directive. The Licensee's quality management program dated January 20, 1992, requires any individual administering therapy dosages to review the written directive before administering the dosage. After the patient left MMC, Mr. Urban looked at the written directive and realized that there was an inconsistency between what the patient received and what had been prescribed. Mr. Urban did not attempt to contact the physician or anyone else regarding this inconsistency. He then

altered the written directive dosage from 150 millicuries to 100 millicuries. Two days later, on May 26, 1999, the prescribing physician discovered the misadministration when he realized that the written directive had been altered to reflect the dose administered. Initially, Mr. Urban denied altering the written directive to MMC and the NRC inspector. The Licensee reported the misadministration to the NRC on June 1, 1999. An NRC inspection was conducted on June 7-8, 1999, and the Office of Investigations (OI) initiated an investigation on June 14, 1999. The OI report concluded that Mr. John Urban engaged in deliberate misconduct by altering a written directive, by providing incomplete and inaccurate information to an NRC inspector, and thereby, in part, causing MMC to file an untimely misadministration report. In addition, Mr. Urban demonstrated careless disregard for license requirements when he did not review the written directive prior to administering a therapeutic dosage. During the predecisional enforcement conference held on September 17, 1999, Mr. Urban indicated that on May 24, 1999, he believed, based on the patient's statement and the dose ordered, that he had administered the correct dosage.

III

The Commission's regulation in 10 CFR 30.10 requires, in part, that any employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any regulation issued by the Commission. Based on the facts as set forth above, the staff concluded that Mr. Urban engaged in deliberate misconduct that caused the Licensee to be in violation of 10 CFR 30.9 and 35.33. Mr. Urban provided incomplete and inaccurate information to an NRC inspector and failed to alert MMC management to the misadministration which denied them the opportunity to submit a timely misadministration report to NRC. The NRC

must be able to rely on the Licensee and its employees to comply with NRC requirements.

Mr. Urban's actions have raised serious doubt as to whether he can be relied upon to comply with NRC requirements and provide complete and accurate information to the NRC.

The NRC staff sent a letter dated November 10, 1999, to Mr. Urban containing the proposed terms of this Confirmatory Order which are set out in Section IV of this Confirmatory Order.

The proposed terms are that Mr. Urban is required to provide a copy of this Confirmatory Order to any current employer (other than MMC) and future employer and is required to notify the NRC of any new employment involving licensed activities for a period of two years. The NRC staff requested Mr. Urban to review the proposed items and indicate his agreement with those terms by signing an enclosed waiver. By facsimile dated November 19, 1999, Mr. Urban transmitted the signed waiver indicating agreement with the provisions, the issuance of the Confirmatory Order confirming the provisions and waiving his right to have a hearing on such a Confirmatory Order.

I find that Mr. Urban's commitments as agreed to in the facsimile of November 19, 1999, are acceptable and necessary and conclude that with these commitments public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Mr. Urban's commitments in the November 19, 1999 facsimile be confirmed by this Confirmatory Order. As stated above, Mr. Urban has agreed to this action. Pursuant to 10 CFR 2.202, I have also determined, based on Mr. Urban's consent and on the significance of the conduct described above, that public health and safety require that this Confirmatory Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161j, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT:

1. Should John Urban seek employment involving NRC-licensed activities during the two year period from the date of this Confirmatory Order, Mr. Urban shall provide a copy of this Confirmatory Order to the prospective employer at the time that Mr. Urban is soliciting or negotiating employment so that the person is aware of the Confirmatory Order prior to making an employment decision. NRC-licensed activities are those activities which are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.
2. For a two year period from the date of this Confirmatory Order, John Urban shall, within 10 business days of his acceptance of an employment offer involving NRC-licensed activities, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the employer.
3. If John Urban is currently involved in NRC-licensed activities at any employer other than MidMichigan Medical Center, Mr. Urban shall, within 30 days of the date of this Confirmatory Order, provide a copy of this Confirmatory Order to any such employer

and provide notice to the Director, Office of Enforcement, at the address provided above, of the name, address, and telephone number of any such employer.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Urban of good cause.

V

Any person adversely affected by this Confirmatory Order, other than Mr. Urban, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, IL 60532, and Mr. Urban. If a person other than Mr. Urban requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final

when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS CONFIRMATORY ORDER.

FOR THE NUCLEAR REGULATORY COMMISSION



R. W. Borchardt, Director
Office of Enforcement

Dated this 26th day of November 1999

Enclosures: As stated

cc: MidMichigan Medical Center

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