

TITLE: MILWAUKEE COUNTY MEDICAL COMPLEX

ALLEGED MATERIAL FALSE STATEMENT TO AN NRC INSPECTOR DURING AN INSPECTION

Licensee:

Milwaukee County Medical Complex
8700 West Wisconsin Avenue
Milwaukee, WI 53226

Docket No.: 30-03444

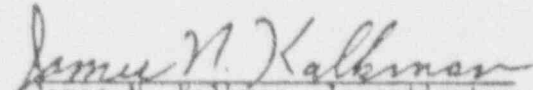
Case No.: 3-89-005

Report Date: November 9, 1989

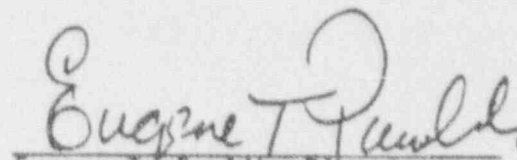
Control Office: 01:RIII

Status: CLOSED

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SYNOPSIS

On March 31, 1989, the NRC Region III Administrator requested that the NRC Office of Investigations (NRC:OI) initiate an investigation relating to an allegation that a senior resident physician in nuclear medicine at Milwaukee County Medical Complex (MCMC) directed other resident physicians and medical technicians to provide false or misleading information to an NRC inspector during a June 1987 special inspection.

The alleged perceived that information provided to the NRC inspector regarding the activities of an MCMC unlicensed staff physician and instructor in the school of nuclear medicine, was false or misleading.

On May 4, 1989, NRC:OI initiated an investigation into the alleged material false statement. This investigation has not corroborated the allegation that MCMC nuclear medicine personnel were directed or coached regarding what information to provide to the NRC. The alleged in this case may have perceived that certain responses to the NRC inspector's questions were required by MCMC management, pursuant to a conversation the alleged had with the senior resident physician in nuclear medicine. However, neither that senior resident physician in nuclear medicine, nor any other MCMC staff who spoke with that senior resident physician, expressed the same perception or understanding as the alleged.

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ACCOUNTABILITY

The following portions of this Report of Investigation (Case No. 3-89-005) will not be included in the material placed in the PDR. They consist of pages 2 through 15.

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APPLICABLE REGULATIONS

Atomic Energy Act of 1954, as amended, Section 186, Material false Statement.

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DETAILS OF INVESTIGATION

Purpose of Investigation

NRC Region III (NRC:RIII) received an allegation that [redacted] physicians and medical technicians in the nuclear medicine department at Milwaukee County Medical Complex (MCMC) were instructed on what to say and not say to an NRC inspector during a June 1987 special inspection. This investigation was requested to determine whether specific instructions were given to the nuclear medicine department staff about what information to provide to the NRC during that inspection, and if true, the involvement, if any, of licensee managers and authorized users in making and/or endorsing the decisions to limit the information given to the NRC (Exhibit 1).

Background

Over the past three years, NRC:RIII received at least four allegations that a [redacted] a physician working in the nuclear medicine department at MCMC, was not licensed by the State of Wisconsin to practice medicine. As a result, NRC:RIII conducted two onsite inspections to resolve those original allegations. From those inspections, NRC:RIII learned that [redacted] was not involved with the nuclear medicine department in terms of ordering studies, interpreting scans, or other activities associated with the NRC licensed program. Rather, [redacted] assigned responsibilities involved the [redacted] of resident physicians and research (Exhibit 2).

The nuclear medicine department at MCMC was directed by Dr. David COLLIER, an authorized user. COLLIER reported to the head of the radiology department, Dr. James YOKER. In 1987 there were three authorized users on the MCMC license, besides COLLIER, who were assigned to supervise the use of nuclear material. They also reviewed the interpretations of nuclear scans to verify the findings made by the resident physicians. MCMC had, at the time of the NRC inspection, two full time nuclear medicine resident physicians and two radiology resident physicians working on a three month rotation in nuclear medicine. MCMC also maintained a large staff of nuclear medical technicians and student technicians (Exhibits 1 and 2).

On June 27, 1988, NRC:RIII received a letter from [redacted] reporting that [redacted] had information from a [redacted] a former [redacted] physician in the nuclear medicine department of MCMC, that [redacted] was directed by another [redacted] physician, [redacted] to provide certain responses to the NRC inspector, which [redacted] believed were false or misleading (Exhibit 3).

Chronology of Events

On June 4, 1987, the NRC conducted a special unannounced inspection of MCMC. Specifically, the inspection focused on the medical activities of [redacted] and whether [redacted] was functioning as an authorized user by supervising the use of nuclear medicine, or by personally practicing nuclear medicine. [redacted] physician, recalled that soon after the NRC inspector arrived, another [redacted] gathered [redacted] a

[redacted] physician, and several medical technicians together and related that in the event the NRC inspector was to ask questions about [redacted] activities, they were to respond that [redacted] was only an [redacted] and had no clinical responsibility. Later that day [redacted] was interviewed by the NRC inspector regarding [redacted] and [redacted] provided the response proffered by [redacted] (Exhibits 2 and 4).

[redacted] stated, in part, to the NRC Office of Investigations (NRC:OI) that [redacted] believed [redacted] response to the NRC about [redacted] was misleading. [redacted] stated the following about [redacted] knowledge of [redacted] activities in nuclear medicine (Exhibit 4). "During the three months that I worked in the nuclear medicine department, it was apparent that the staff knew that [redacted] was not a licensed physician. [redacted] name never appeared on any documentation even though [redacted] often acted as the [redacted]. When I would dictate an interpretation of a nuclear medicine study, I would dictate that the interpretation was prepared by [redacted]. When I would receive the typed report to review, [redacted] name would be replaced by another physician's name, often Dr. COLLIER's or [redacted] even though that other doctor had not been present during my interpretation." [redacted] also related, "I was aware that [redacted] determined the dosage necessary for therapeutic procedures. The patient's attending physician would order the therapy but would not indicate the dosage. [redacted] would make that determination and the resident would order the dose" (Exhibit 4).

INVESTIGATOR'S NOTE: The issue of whether or not the activities of [redacted] constitute "authorized use" and as such, requires a medical license, is the underlying foundation of this allegation. Both [redacted] and [redacted] feel that the actions that [redacted] performed required a current valid medical license. However, NRC:RII Inspection Report No. 030-03444/87001(DRSS) dated September 13, 1988, addressed this issue, and as defined in 10 CFR 35.11b, the actions of [redacted] as identified, do not require a current medical license. Thus, while both [redacted] may disagree, according to current interpretation of the NRC regulations applicable in this case, the actions of [redacted] do not appear to have violated any NRC rules or regulations.

Also on June 4, 5, or 9, 1987, the NRC inspector interviewed [redacted] and [redacted] YOUKER, and two nuclear medicine technicians [redacted] and [redacted]. None of those individuals corroborated [redacted] statement that [redacted] or any other MCMC staff physician directed them as to what responses to provide to the NRC regarding [redacted] (Exhibits 5, 6, 7, 8, and 9).

[redacted] stated, in part, the following to NRC:OI regarding the NRC inspection and [redacted] understanding of [redacted] function at MCMC. "During the inspection interview, I became aware that several questions related to [redacted] activities at MCMC. I knew the limitations of [redacted] position with regard to interpreting scans, etc. and that [redacted] was only allowed to [redacted]. I related that information to the NRC inspector. Following my interview, I recall discussing the questions and my responses to these questions with other members of the nuclear medicine staff It was not my intention to direct any other MCMC employee about what to say to the NRC inspector relating to [redacted] activities or responsibilities in nuclear

medicine. I was not directed by either Dr. YUKER or Dr. COLLIER or any MCMC management to brief the nuclear medicine staff about what they should say to the NRC about [redacted] nuclear medicine activities" (Exhibit 5).

[redacted] stated, in part, the following to NRC:OI regarding the NRC inspection and [redacted] understanding of [redacted] function at MCMC. "I recall that the NRC inspector arrived at MCMC. Several [redacted] had already been interviewed by the inspector. Before I spoke with them, [redacted] appeared upset with the inspector's presence and was concerned about who the supervising 'staff' physician was at the time because most of the primary staff were away from the MCMC. [redacted] did not discuss [redacted] responses to the NRC inspector with me and did not suggest or coach me as to what I should respond to the inspector. . . . I was interviewed by the NRC inspector either the following day or several days later. I answered the questions regarding [redacted] honestly. I stated that [redacted] as far as ordering therapeutic doses of nuclear medicine and interpreting scans. I recall that I would dictate scan results and a staff physician would be responsible to review the scans if they [staff physicians] were not [present] during the interpretation" (Exhibit 6).

YUKER related to NRC:OI that he did not recall being interviewed by the NRC in 1987, but did recall [redacted] expressing their concern about the inspection. YUKER advised [redacted] what MCMC's official position was regarding [redacted]. YUKER stated that he did not coach any of the MCMC staff on what to say to the NRC regarding [redacted] nor did he authorize or direct another staff member to take such action (Exhibit 7).

Willfulness/Intent

[redacted] stated that [redacted] directed [redacted] to provide what [redacted] believed to be false or misleading responses to the NRC questions relating to [redacted] function at MCMC (Exhibit 4).

[redacted] YUKER, [redacted] and [redacted], all of whom were interviewed by the same NRC inspector who talked to [redacted] failed to corroborate [redacted] allegation (Exhibits 5, 6, 7, 8, and 9).

Agent's Conclusion

It appears from the statements of MCMC staff present during the June 1987 NRC inspection that with the exception of [redacted] perception, responses provided to the NRC inspector's questions were not directed or coached by MCMC management or with their authorization. It is suspected that [redacted] and [redacted] miscommunicated in conversation regarding the NRC inspection.

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SUPPLEMENTAL INFORMATION

On January 13, 1988, COLLIER forwarded a letter to the NRC relating to the function of [REDACTED] at MCMC. That letter stated, in part, "during the day to day operations of the Nuclear Medicine Section, [REDACTED] will participate in clinical conferences as part of [REDACTED] and research activities. However, [REDACTED] is not responsible for making medical diagnoses, supervising the use of by-product materials for humans, or making human therapeutic decisions." During interviews with NRC:01, [REDACTED] were read the above quote. They both disagreed with the accuracy of the statement, since they perceived that [REDACTED] did make medical diagnoses and supervise the use of byproduct materials in that [REDACTED] was [REDACTED] (Exhibits 10, 4, and 6).

The following additional MCMC employees were interviewed; however, the information they provided was not included in the details of this report: [REDACTED] (Exhibit 11), [REDACTED] (Exhibit 12), [REDACTED] (Exhibit 13), and [REDACTED] (Exhibit 14).

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
1	NRC memorandum from A. Bert DAVIS to Eugene T. Pawlik dated March 31, 1989, re: Request for Investigation.
2	NRC Inspection Report No. 030-03444/87001(DRSS).
3	Letter from Arnold J. KRUBSACK, Ph.D., M.D., to James G. KEPPLER dated June 24, 1988.
4	Sworn statement of [REDACTED] dated May 5, 1989.
5	Sworn statement of [REDACTED], dated May 17, 1989.
6	Sworn statement of [REDACTED] dated June 14, 1989.
7	Report of Interview with James E. YOKER dated June 14, 1989.
8	Report of Interview with [REDACTED] dated June 7, 1989.
9	Report of Interview with [REDACTED] dated May 23, 1989.
10	Letter from B. David COLLIER, M.D., to Darrell WIEDEMAN dated January 13, 1988.
11	Report of Interview with [REDACTED] dated May 23, 1989.
12	Report of Interview with [REDACTED] dated June 7, 1989.
13	Report of Interview with [REDACTED] dated May 23, 1989.
14	Report of Interview with [REDACTED] dated May 23, 1989.