

FEB 27 1997

License No. 20-03857-06
Docket No. 030-01868
Control No. 122842

F.X. Masse, CHP, CMP, RSO
New England Medical Center
171 Harrison Avenue
Boston, MA 02111

Dear Mr. Masse:

This is in reference to your letter dated February 5, 1997, regarding our recent denial of your request for exemption to the provisions of 10 CFR 35.410, 35.415(a)(2), 35.415(a)(3), 35.415(a)(4), and 35.415(b) as they pertain to treatment of certain permanent brachytherapy implant patients.

In your letter you indicate concern that NRC personnel reviewing your application over the past two years may not have been aware of the impending regulatory changes to 10 CFR 35.75. Consideration was given to the patient release rule being published in early 1997 in correspondence with our Headquarters Office on December 30, 1996. At that time the NRC staff reviewed your request based on current regulation in 10 CFR 35.75 and determined that for this case no sufficient bases were provided to justify an exemption from the requirements of 10 CFR 35.410 and 35.415. The NRC staff firmly believed that the difficulties that may have been involved in the area of patient release should be resolved with a generic solution by amending the NRC rule which would be applicable to all licensees. Also, no individual exemptions should be given to a specific licensee unless for extenuating circumstances and appropriate justification was provided. We trust that with the promulgation of the new NRC rule, you will receive desired relief in this area.

Thank you for your interest. If you have any further questions, please contact M. Shanbaky of my staff at (610) 337-5209.

Sincerely,

Original Signed By:

F. Costello
for

A. Randolph Blough, Director
Division of Nuclear Materials Safety

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10 CFR Parts 2 and 35

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