

requirement to maintain records that are complete and accurate in all material respects. Mr. Isakoff's actions in deliberately submitting materially inaccurate information to the licensee, in willfully causing the licensee to violate Commission requirements, and in his request to a subordinate to falsely claim that she had conducted surveys pursuant to NRC requirements, have raised serious doubt as to whether he can be relied upon to comply with NRC requirements and to submit and maintain complete and accurate information and records.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public would be protected if Mr. Isakoff were permitted at this time to be involved in NRC-licensed activities. Therefore, the NRC has determined that the public health, safety and interest require that Mr. Isakoff be prohibited from any involvement in NRC-licensed activities for a period of one year. If, on the effective date of this Order, Mr. Isakoff is involved in NRC-licensed activities, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. Additionally, Mr. Isakoff is required to notify the NRC of his first employment in NRC-licensed activities following the prohibition period.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 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* that:

1. Gary Isakoff is prohibited from engaging in NRC-licensed activities for one year from the effective date of this Order. NRC-licensed activities are those activities that 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. If, on the effective date of this Order, Mr. Isakoff is involved in NRC-licensed activities, he must, on the effective date of this Order, immediately cease those activities, provide a copy of this Order to the employer, and inform the NRC of the name, address and telephone number of the employer.

3. For a period of one year after the one year period of prohibition has expired, Mr. Isakoff shall, within 20 days of his acceptance of each

employment offer involving NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the first such notification, Mr. Isakoff shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

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

V

In accordance with 10 CFR 2.202, Mr. Isakoff must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. 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. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Isakoff or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Chief, 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 Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region I, U.S. Nuclear Regulatory, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to Mr. Isakoff if the answer or hearing request is by a person other than Mr. Isakoff. If a person other than Mr. Isakoff requests a hearing, that person shall set forth with particularity the manner in which that person's interest is adversely affected by

this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Isakoff or 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 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 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.

Dated at Rockville, Maryland this 24th day of February, 1999.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Deputy Executive Director for Regulatory Effectiveness.

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NUCLEAR REGULATORY COMMISSION

[IA 99-001]

Peter Kint; Order Prohibiting Involvement in NRC-Licensed Activities

I

Mr. Peter Kint (Mr. Kint) was employed as a radiographer by XRI Testing (Licensee). The Licensee is the holder of License No. 21-05472-01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 34 and last renewed on January 28, 1998. The license authorizes possession and use of sealed sources in the conduct of industrial radiography in accordance with the conditions specified therein.

II

On August 24 through 27, 1998, a special inspection of licensed activities was conducted in response to the Licensee's notification to the NRC on August 21, 1998, of a potential overexposure which had occurred during radiographic operations on August 21, 1998. The inspection disclosed that Mr. Kint was not wearing an alarming ratemeter as required. An investigation of this event was conducted by the NRC Office of

Investigations (OI) from August 30 to October 8, 1998.

During the week of August 17, 1998, Mr. Kint and another radiographer conducted radiographic operations at a temporary jobsite in Mishawaka, Indiana. Both individuals were certified in 1995 as radiographers by the State of Illinois and had received instruction in the Licensee's procedures and NRC regulations.

NRC regulations require, in part, that the licensee may not permit any individual to act as radiographer at a temporary jobsite unless at all times during radiographic operations each individual wears on the trunk of the body an alarming ratemeter (10 CFR 34.47).

On August 21, 1998, while at the Mishawaka temporary jobsite, Mr. Kint was exposed to a radiography source (92 curies of iridium-192) when he entered the area of operations and manipulated the collimator. Mr. Kint apparently did not realize that the source was unshielded until he returned to the radiographic exposure device. Mr. Kint was not wearing his alarming ratemeter and he received a radiation dose (shallow dose equivalent) of 20 rems to his extremities (hand). Had he worn the alarm ratemeter as required, Mr. Kint most probably would have been alerted to the unshielded source before receiving the 20 rems shallow dose equivalent. Mr. Kint stated to OI that he intentionally failed to wear his alarm ratemeter on that occasion, stating that he wore it only about 25 percent of the time that it was required to be worn. In addition, (1) Mr. Kint was trained on using the alarm ratemeter; (2) Mr. Kint was provided with an alarming ratemeter which he had with him at the jobsite; and (3) in his September 11, 1998, testimony to the OI investigators, Mr. Kint stated that he deliberately did not wear the alarm ratemeter because it was inconvenient, uncomfortable, and required a belt which he did not normally wear. In addition, Mr. Kint did not perform a radiation survey as required by 10 CFR Section 34.49 or maintain continuous direct visual surveillance of the operation as required by 10 CFR Section 34.51.

III

Based on the above, the NRC has determined that Mr. Kint, an employee of the Licensee, engaged in deliberate misconduct in violation of 10 CFR 30.10 (a)(1), causing the Licensee to be in violation of 10 CFR 34.47 (a). Specifically, the NRC has concluded that Mr. Kint deliberately failed to wear his alarming ratemeter while conducting radiography at a temporary jobsite

during the week of August 17, 1998. As a result of not wearing his alarm ratemeter on August 21, 1998, Mr. Kint received an unnecessary radiation exposure to his hand during an incident when he handled a collimator while the iridium source was in the unshielded position.

The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements, including the requirement to wear appropriate personal radiation monitoring devices during radiographic operations at a temporary jobsite. This deliberate act is significant because Mr. Kint, an experienced radiographer, failed to observe the safeguards designed to protect him from potentially dangerous radiation exposures. In addition, there were violations caused by Mr. Kint which do not appear to be wilful and which include Mr. Kint's failure to perform a radiation survey and failure to maintain direct visual surveillance of the radiographic operations. Mr. Kint's actions during this incident have raised serious doubt as to whether he can be relied upon to comply with NRC requirements.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Kint were permitted at this time to be involved in NRC-licensed activities. Therefore, the NRC has determined that the public health, safety and interest require that Mr. Kint be prohibited from any involvement in NRC-licensed activities for a period of one year from the effective date of this Order. If Mr. Kint is involved in NRC-licensed activities on the effective date of this Order, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. Additionally, Mr. Kint is required to notify the NRC of his first employment in NRC-licensed activities following the prohibition period.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 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, that:

1. Mr. Kint is prohibited from engaging in NRC-licensed activities for one year from the effective date of this Order. NRC-licensed activities are those activities that 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. If Mr. Kint is involved in NRC-licensed activities on the effective date of this Order, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

3. For a period of one year after the one year period of prohibition has expired, Mr. Kint shall, within 20 days of his acceptance of each employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the first such notification, Mr. Kint shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

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

V

In accordance with 10 CFR 2.202, Mr. Kint must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. 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. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Kint or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or 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, Illinois 60532, and to Mr. Kint if the answer or hearing request is by a person other than Mr. Kint. If a person other than Mr. Kint requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Kint or 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 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 effective and final 20 days from the date of this 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.

Dated at Rockville, Maryland this 1st day of March 1999.

For the Nuclear Regulatory Commission.

Malcolm R. Knapp,

Deputy Executive Director for Regulatory Effectiveness.

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NUCLEAR REGULATORY COMMISSION

[IA 98-065]

Lee LaRocque; Order Prohibiting Involvement in NRC-Licensed Activities

I

Mr. Lee LaRocque (Mr. LaRocque) was the Chief Nuclear Medicine Technologist (CNMT) in the Nuclear Medicine Department (NMD) of Windham Community Memorial Hospital, Inc. (Windham or Licensee), Willimantic, Connecticut, from September 1991 until August 1997, when he was demoted to the position of Nuclear Medicine Technologist (NMT). Mr. LaRocque was employed as an NMT in the NMD at the facility from August 1997 to May 14, 1998, when his

employment was terminated. Windham holds Facility License No. 06-15203-01 (License), issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 35, which authorizes Windham to use byproduct material for medical use.

II

On May 21, 1998, an investigation was initiated by the NRC Office of Investigations (OI), to determine if Mr. LaRocque, while functioning as the NMT at Windham, administered a dose of iodine-131 (I-131) greater than permitted by the License and created an inaccurate record of the dose. Based upon all the evidence, including an admission by Mr. LaRocque during an interview with OI on October 8, 1998, the NRC concludes that Mr. LaRocque deliberately altered a dose calibrator reading for an I-131 capsule, thereby misleading the Authorized User regarding the assayed dose, administered the capsule to the patient knowing that the dose exceeded the License limits, and deliberately created inaccurate records of the dose.

Specifically, on the morning of May 11, 1998, when a patient arrived at Windham to be given a dose of 29.5 millicuries of I-131 in capsule form, Mr. LaRocque assayed the dose and found that it contained more than 30 millicuries (mCi) activity. The License limits doses administered to patients to 30 mCi of I-131. As a result, the patient was instructed to return to the hospital at 4:30 p.m., the time at which the dose was expected to have decayed to the prescribed dose.

When the patient returned to the hospital at about 4:15 p.m., Mr. LaRocque measured the dose and found that it was slightly greater than 30 mCi. Rather than waiting until 4:30 p.m., Mr. LaRocque retrieved two lead strips from a nearby closet and inserted them into the dose calibrator in order to lower the reading. With the lead strips inside the dose calibrator, the dose measured 29.2 mCi. Mr. LaRocque then informed the AU that the dose was ready for administration to the patient. Pursuant to the Licensee's Quality Management Program, the AU is required to observe the dose calibrator display before the dose is actually given to the patient. At the request of Mr. LaRocque, the AU observed the dose calibrator readout and approved administration of the dose to the patient. Mr. LaRocque then administered the dose.

Mr. LaRocque also completed a radiopharmaceutical written directive and patient verification form stating that the assayed dose was 29.2 mCi. This

record is required to be maintained by the Licensee by 10 C.F.R. 35.53(a) and (c). In his interview with OI, Mr. LaRocque admitted that he knowingly misled the AU as to the activity of the dose, and knowingly created inaccurate Licensee records, which stated that the assayed dose and the dose administered to the patient was 29.2 mCi, when Mr. LaRocque knew that the dose was in fact slightly greater than 30 mCi and that the License prohibited the administration of I-131 in doses greater than 30 mCi to patients.

Mr. LaRocque's actions are of particular concern given that on December 10, 1997, only six months before the above-described deliberate misconduct occurred, the NRC had issued a letter to him, explaining that any future deliberate misconduct could subject him to significant enforcement action. Previously, when Mr. LaRocque was the Chief NMT at Windham: (1) after the fact and without first-hand knowledge, he created inaccurate records associated with the disposal of technetium-99m labeled DTPA aerosol kits; and (2) he failed to promptly report that dose calibrator constancy records had been falsified by another NMT. The NRC issued a Notice of Violation to Windham on February 6, 1998, based, in part, on Mr. LaRocque's deliberate misconduct while employed as the Chief NMT.

In a telephone call on December 23, 1998, the NRC discussed its conclusions with Mr. LaRocque and offered Mr. LaRocque an opportunity to attend a predecisional enforcement conference. Mr. LaRocque declined the opportunity, noting that he did not believe he could provide any additional information from what he had already provided to OI. In a letter to Mr. LaRocque dated January 11, 1999, the NRC confirmed that he had declined the opportunity for a conference and offered Mr. LaRocque a second opportunity to attend a conference. Mr. LaRocque did not request a conference.

III

Based on the above, Mr. LaRocque engaged in deliberate misconduct in that: (1) in violation of 10 C.F.R. 30.10(a)(1), he deliberately administered a dose of I-131 to a patient in excess of the 30 mCi limit of Condition 15 the License, thereby putting the Licensee in violation of its License; and (2) in violation of 10 C.F.R. 30.10(a)(2), he deliberately created materially inaccurate Licensee dose records, required to be maintained by 10 C.F.R. 35.53(a) and (c), thereby causing the Licensee to be in violation of 10 C.F.R. 30.9(a).