

TRANSMISSION VERIFICATION REPORT

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NAME : USNRC RIII  
FAX : 6308299782  
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NRC FORM 386 (R11)  
(4-2004)



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION III  
2443 Warrenville Road, Suite 210  
Lisle, Illinois 60532-4352

TELEFAX TRANSMITTAL

DATE: 12/15/11 NUMBER OF PAGES: 4  
(including this page)

SEND TO: JOSEPH GUBBELS, CEO

LOCATION: PATIENTS FIRST HEALTH CARE, LLC

FAX NUMBER: 630-239-5166  VERIFY BY CALLING SENDER

FROM: Colleen Carol Casey  
(SENDER)

TELEPHONE NUMBER: 630-829-9841 FAX NUMBER: 630-515-1078

If you do not receive the complete fax transmittal, please contact the sender as soon as possible at the telephone number provided above.

MESSAGE

Please call me to discuss this if you have questions.



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MESSAGE

Please call me to discuss this if you have questions. I will be on leave from Dec. 16 - 26, 2011 and do not necessarily expect to be checking my messages.

Thank you,  
Colleen Carol Casey

NOTICE

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by telephone and return the original to the above address, by U.S. Mail. Thank you.

**CONVERSATION RECORD**

**COLLEEN CAROL CASEY  
MATERIALS LICENSING BRANCH  
UNITED STATES NUCLEAR REGULATORY COMMISSION**

REGION III  
2443 WARRENVILLE ROAD STE 210  
LISLE, ILLINOIS 60532-4352  
OFFICE: (630)-829-9841 FAX: (630) 515-1078  
EMAIL: COLLEEN.CASEY@NRC.GOV

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TIME DATE  
**ACTUALLY FAXED / EMAILED? YES. December 15, 2011**

**Fax No.: 636-239-5166**

**Email address:**

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NAME OF PERSON(S) CONTACTED	ORGANIZATION	TELEPHONE NO.
Joseph Gubbies <sup>ed</sup> , CEO for Patients First Health Care, LLC		636-221-2552 (cellphone) 636-390-1400

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**SUBJECT**

License No.: 24-32304-01

**Control No.: 576193**

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**SUMMARY**

We have reviewed your letter dated September 30, 2011, requesting an amendment to your byproduct materials license and find that we need additional information as follows:

1. Your letter states that Brenda Overschmidt has permanently discontinued her duties as RSO under your license and notifies us that John M. Mohart, M.D. is your temporary RSO.

On October 13, 2011, I called you but reached you on your cellphone while you were driving and we were unable to continue the call. You agreed to call me back.

To date I have not received a callback so I just called you again at 3:31 pm this afternoon and the situation above repeated itself. So I am preparing this record to transmit to you to move this review forward.

Given the incomplete information provided in your letter dated September 30, 2011, and its attachments, we cannot approve Dr. Mohart as your RSO.

Your letter requests an exemption from 10 CFR 35.50(d), under 10 CFR 35.19, because Ms. Overschmidt was not able to provide a signed preceptor attestation for Dr. Mohart apparently.

Please note that exemption requests are most often used as a mechanism of last resort. They are reserved for situations in which all other reasonable alternatives for compliance with NRC's regulatory requirements have been exhausted. They must be requested, justified and supported with specific details that are lacking in your letter dated September 30, 2011. For additional information you may wish to consult NUREG 1556, Vol. 20, section 4.13 at:

[http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/v20/#\\_1\\_49](http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/v20/#_1_49)

In addition, exemption requests take a considerable amount of time to prepare and review, often months, as they must undergo review by our headquarters staff and often by NRC's Advisory Committee on the Medical Use of Isotopes (ACMUI). NRC does not "regulate by exemption."

A reasonable alternative to having Ms. Overschmidt provide a signed preceptor statement would be obtaining a signed preceptor attestation from an RSO on another NRC license that authorizes activities like those on your license.

This could be the easiest and quickest way to resolve this situation and keep your license in compliance with NRC's regulatory requirements.

An attachment to your letter includes an article from NRC's FSME Newsletter, the Fall 2007 issue. This article concerns individuals seeking RSO status and mentions that licensees can request an exemption from 10 CFR 35.50(d) under 10 CFR 35.19.

However, this article was superseded by Regulatory Issue Summary (RIS) 2010-09, "Radiation Safety Officers for Medical-Use Licenses Under 10 CFR Part 35," located at:

<http://pbadupws.nrc.gov/docs/ML0826/ML082680010.pdf>

It is recommended that you read the RIS in its entirety but a relevant excerpt is as follows:

**"In the interim, licensees may consider *all individuals* who meet the definition of RSO in 10 CFR 35.2 as persons who may serve as preceptors. These individuals include not only persons named as RSOs on licenses and master material licensee permits but also those certified individuals who meet the requirements in 10 CFR 35.50(a) or 10 CFR 35.50(c)(1) and who satisfy the requirement for recency of training in 10 CFR 35.59.**

**The definition of an RSO in 10 CFR 35.2 therefore allows for a larger pool of individuals who are qualified to serve as preceptors than that of only RSOs named on licenses and master material licensee permits.**

**A licensee experiencing difficulty in obtaining the preceptor attestation for an authorized individual seeking RSO status or for an individual certified by a recognized board who is seeking RSO status can request an exemption under 10 CFR 35.19, "Specific Exemptions."**

**Licensees are reminded that each request for an exemption to the regulations is reviewed on a case-by-case basis, and that approval of an exemption request is not automatic. The review process involves both NRC Regional and Headquarters**

staff, so additional time, compared to that required for requests for license amendments which can be handled by Regional staff alone, will be required for processing exemption requests.”

**Please respond by providing an updated set of preceptor forms for Dr. Mohart to become RSO, including an appropriate signature from an appropriately qualified preceptor RSO. Please also request the withdrawal of your exemption request as it is not appropriate to proceed with it.**

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

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**ACTION REQUIRED**

Submit the requested information within **14 calendar days** (by December 29, 2011) by referencing control number **576193** to facilitate proper handling. Please contact me if you need to make alternative response arrangements. Upon receipt of your response we will resume our review. Address your written response, via an appropriately dated and signed (by management) cover letter, to my attention at the above address.

**PLEASE DIRECT ANY QUESTIONS YOU MAY HAVE TO ME AT 630-829-9841.**

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NAME OF PERSON DOCUMENTING CONVERSATION

SIGNATURE

Colleen Carol Casey



DATE

December 15, 2011