

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

E.M. DIMITRI, D.O. PROFESSIONAL
MEDICAL CORPORATION

AI # 134229

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

* Settlement Tracking No.
* SA-RE-21-0025
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* Enforcement Tracking No.
* RE-PP-19-00611
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SETTLEMENT

The following Settlement is hereby agreed to between E.M. Dimitri, D.O. Professional Medical Corporation (“Respondent”) and the Department of Environmental Quality (“DEQ” or “the Department”), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. (“the Act”).

I

Respondent is a corporation that owned and/or operated a medical and cosmetic dermatology facility located in Slidell, St. Tammany Parish, Louisiana (“the Facility”).

II

On October 1, 2019, the Department issued to Respondent a Notice of Potential Penalty, Enforcement No. RE-PP-19-00611 (Exhibit 1).

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of NINE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$9,500.00), of which Six Hundred Seventy-Five and 81/100 Dollars (\$675.81) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the inspection report(s), the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for

both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

As required by law, the Department has submitted this Settlement Agreement to the Louisiana Attorney General for approval or rejection. The Attorney General's concurrence is appended to this Settlement Agreement.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in St. Tammany Parish, Louisiana. The advertisement, in form and wording approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

E.M. DIMITRI, D.O. PROFESSIONAL
MEDICAL CORPORATION

BY: Karen Drake
(Signature)

Karen Drake
(Printed)

TITLE: General Manager

THUS DONE AND SIGNED in duplicate original before me this 24th day of
June, 20 21, at Picayune, Ms.



Hannah Weir
NOTARY PUBLIC (ID # 290097)

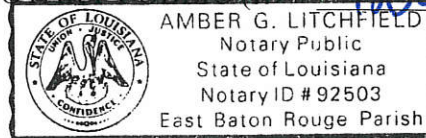
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LOUISIANA DEPARTMENT OF
ENVIRONMENTAL QUALITY
Chuck Carr Brown, Ph.D., Secretary

BY: [Signature]
Lourdes Iturralde, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 17th day of
September, 20 21, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 92503)



(stamped or printed)

Approved: [Signature]
Lourdes Iturralde, Assistant Secretary

JOHN BEL EDWARDS
GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL COMPLIANCE

October 1, 2019



CERTIFIED MAIL 7018 0360 0001 5039 0478
RETURN RECEIPT REQUESTED

E.M. DIMITRI, D.O. PROFESSIONAL MEDICAL CORPORATION
c/o Elizabeth M. Dimitri, D.O.
2104 Gause Blvd. West, Ste #A
Slidell, LA 70460

**RE: NOTICE OF POTENTIAL PENALTY
ENFORCEMENT TRACKING NO. RE-PP-19-00611
AGENCY INTEREST NO. 134229**

Dear Madam:

On or about March 21, 2019, an inspection of **DIMITRI DERMATOLOGY CLINIC**, a medical and cosmetic dermatology clinic, owned and/or operated by **E.M. DIMITRI, D.O. PROFESSIONAL MEDICAL CORPORATION (RESPONDENT)**, was performed to determine the degree of compliance with the Louisiana Environmental Quality Act (the Act) and the Radiation Protection Regulations. The facility is located at 2104 Gause Blvd West in Slidell, St. Tammany Parish, Louisiana.

The Department issued **WARNING LETTER RE-L-19-00611** on or about July 17, 2019, for violations discovered during the March 21, 2019 inspection. A response was received by the Department on or about August 16, 2019.

While the investigation by the Louisiana Department of Environmental Quality (the Department) is not yet complete, the following violations were noted during the course of the inspection:

- A. The Respondent failed to ensure that individuals are not exposed to the useful beam except for healing arts purposes and unless such exposure has been authorized by a licensed practitioner of the healing arts, in violation of LAC 33:XV.603.A.7. Specifically, the Respondent's contracted Radiation Therapy Technologist (RTT) performed 10 (ten) superficial x-ray treatments on a patient to an incorrect treatment site. The total misapplied dose from all ten of the treatments was 270 Gy or 2700 rad. On or about August 16, 2019, the Respondent submitted a response to **WARNING LETTER RE-L-19-00611** detailing updated procedures to include an increase in the number of pre-op photos showing recognizable landmarks to be referred to daily,

forwarding of procedure documentation to Provider for daily checks, and review of treatment plan by Provider weekly.

- B. The Respondent failed to ensure that persons intentionally applying or allowed to apply, either directly or indirectly, radiation to human beings are licensed by the State of Louisiana to practice the healing arts and authorized to use radiation on humans, in violation of LAC 33:XV.110.E. Specifically, the Respondent utilizes SkinCure Oncology LLC (SCO) to provide qualified and licensed RTTs for administering prescribed treatments. The RTT that performed the procedure, Leigh A. Johnson, is an employee of SCO with a degree in Radiation Therapy Technology. At the time of the inspection, she did not have a current Louisiana RTT license and was unaware she needed a Louisiana License to work as a RTT within the State of Louisiana. Mrs. Johnson had been trained and allowed to administer radiation treatments utilizing the Respondent's registered superficial radiotherapy unit. On March 18, 2019, Mrs. Johnson submitted a state licensure application. On or about August 16, 2019, the Respondent submitted a response to **WARNING LETTER RE-L-19-00611** detailing updated procedures to ensure all employees maintain a Louisiana license. Procedures include routinely requiring new RTTs to provide proof of licensure throughout the hiring process and credentialing reminders for expirations.

Pursuant to La. R.S. 30:2050.3(B), you are hereby notified that the issuance of a penalty assessment is being considered for the violation(s) described herein. Written comments may be filed regarding the violation(s) and the contemplated penalty. If you elect to submit comments, it is requested that they be submitted within ten (10) days of receipt of this notice.

Prior to the issuance of any additional appropriate enforcement action, you may request a meeting with the Department to present any mitigating circumstances concerning the violation(s). If you would like to have such a meeting, please contact Kelly O'Neal at 225-219-3932 within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**.

The Department is required by La. R.S. 30:2025(E)(3)(a) to consider the gross revenues of the Respondent and the monetary benefits of noncompliance in order to determine whether a penalty will be assessed and the amount of such penalty. Please forward the Respondent's most current annual gross revenue statement along with a statement of the monetary benefits of noncompliance for the cited violations to the above named contact person within ten (10) days of receipt of this **NOTICE OF POTENTIAL PENALTY**. Include with your statement of monetary benefits the method(s) you utilized to arrive at the sum. If you assert that no monetary benefits have been gained, you are to fully justify this statement. If the Respondent chooses not to submit the requested most current annual gross revenues statement within ten (10) days, it will be viewed by the Department as an admission that the Respondent has the ability to pay the statutory maximum penalty as outlined in La. R.S. 30:2025.

For each violation described herein, the Department reserves the right to seek civil penalties and the right to seek compliance with its rules and regulations in any manner allowed by law, and nothing herein shall be construed to preclude the right to seek such penalties and compliance.

The Department assesses civil penalties based on LAC 33:I.Subpart1.Chapter 7. To expedite closure of this **NOTICE OF POTENTIAL PENALTY**, the Respondent may offer a settlement amount

Dimitri Dermatology Clinic

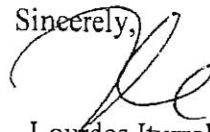
RE-PP-19-00611

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to resolve any claim for civil penalties for the violation(s) described herein. The Respondent may offer a settlement amount, but the Department is under no obligation to enter into settlement negotiations. The decision to proceed with a settlement is at the discretion of the Department. The settlement offer amount may be entered on the attached "**NOTICE OF POTENTIAL PENALTY REQUEST TO SETTLE**" form. The Respondent must include a justification of the offer. **DO NOT** submit payment of the offer amount with the form. The Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.

To reduce document handling, please refer to the Enforcement Tracking Number and Agency Interest Number on the front of this document on all correspondence in response to this action.

Sincerely,



Lourdes Iturralde

Assistant Secretary

Office of Environmental Compliance

LI/KAO/kao

Alt ID No. 13711-EQT2

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF ENVIRONMENTAL COMPLIANCE

ENFORCEMENT DIVISION

POST OFFICE BOX 4312

BATON ROUGE, LOUISIANA 70821-4312

NOTICE OF POTENTIAL PENALTY

REQUEST TO SETTLE (OPTIONAL)



Enforcement Tracking No.	RE-PP-19-00611	Contact Name	Kelly O'Neal
Agency Interest (AI) No.	134229	Contact Phone No.	225-219-3932
Alternate ID No.	13711-EQT2		
Respondent:	E.M. DIMITRI, D.O. PROFESSIONAL MEDICAL CORPORATION	Facility Name:	Dimitri Dermatology Clinic
	c/o Elizabeth Dimitri, DO, RSO	Physical Location:	2104 Gause Blvd. West, Ste #A
	2104 Gause Blvd. West, Ste #A.	City, State, Zip:	Slidell, LA 70460
	Slidell, LA 70460	Parish:	St. Tammany

SETTLEMENT OFFER (OPTIONAL)

(check the applicable option)

The Respondent is not interested in entering into settlement negotiations with the Department with the understanding that the Department has the right to assess civil penalties based on LAC 33:I.Subpart1.Chapter7.

In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (RE-PP-19-00611), the Respondent is interested in entering into settlement negotiations with the Department and would like to set up a meeting to discuss settlement procedures.

In order to resolve any claim for civil penalties for the violations in NOTICE OF POTENTIAL PENALTY (RE-PP-19-00611), the Respondent is interested in entering into settlement negotiations with the Department and offers to pay \$ _____ which shall include LDEQ enforcement costs and any monetary benefit of non-compliance.

- Monetary component = \$ _____
- Beneficial Environmental Project (BEP) component (optional) = \$ _____
- **DO NOT SUBMIT PAYMENT OF THE OFFER WITH THIS FORM- the Department will review the settlement offer and notify the Respondent as to whether the offer is or is not accepted.**

The Respondent has reviewed the violations noted in NOTICE OF POTENTIAL PENALTY («Tracking_») and has attached a justification of its offer and a description of any BEPs if included in settlement offer.

CERTIFICATION STATEMENT

I certify, under provisions in Louisiana and United States law that provide criminal penalties for false statements, that based on information and belief formed after reasonable inquiry, the statements and information attached and the compliance statement above, are true, accurate, and complete. I also certify that I do not owe outstanding fees or penalties to the Department for this facility or any other facility I own or operate. I further certify that I am either the Respondent or an authorized representative of the Respondent.

Respondent's Signature	Respondent's Printed Name	Respondent's Title
Respondent's Physical Address	Respondent's Phone #	Date

MAIL COMPLETED DOCUMENT TO THE ADDRESS BELOW:

Louisiana Department of Environmental Quality
 Office of Environmental Compliance
 Enforcement Division
 P.O. Box 4312
 Baton Rouge, LA 70821
 Attn: Kelly O'Neal