

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

LANE REGIONAL MEDICAL CENTER

AI # 3039

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

* **Settlement Tracking No.**
* **SA-RE-12-0026**
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* **Enforcement Tracking No.**
* **RE-CN-11-00843**
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SETTLEMENT

The following Settlement is hereby agreed to between Lane Regional Medical Center (“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 owns and/or operates a nuclear medicine facility located in Zachary, East Baton Rouge Parish, Louisiana (“the Facility”).

II

On August 1, 2011, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. RE-CN-11-00843, which was based upon the following findings of fact:

The Respondent owns and/or operates Lane Regional Medical Center, a nuclear medicine licensee, located at 6300 Main Street in Zachary, East Baton Rouge Parish, Louisiana. The Respondent currently operates under the Radioactive Material License NO. LA-1387-L01 issued by the Department on March 4, 2008.

On or about May 11, 2011, an inspection was conducted by the Department in order to determine the degree of compliance with the Radiation Protection Regulations and the Act.

The following violations were noted during the course of the inspection:

- A. During the course of the inspection, it was noted that the Respondent failed to ensure that adequate precautions were taken to prevent deceptive exposure(s) of individual monitoring devices. Specifically, the Respondent stored the control personnel monitoring badges routinely on the desk of Mr. Huey Tan Nguyen, Lane Medical Nuclear Medicine Technologist, an area that was regularly exposed to radiation from patients and from the flood source used in the gamma camera. It was also noted that the personnel monitoring badges from all personnel were kept in a bag on Mr. Nguyen's desk. This is a violation of LAC 33:XV.430.D.

- B. During the course of the inspection, it was noted that the Respondent failed to record the complete identification of the survey meter on the contamination survey form. This is a violation of LAC 33:XV.724.H. This violation was noted as corrected at the time of the inspection with the correct information entered into the report at the conclusion of the inspection.

- C. During the course of the inspection, it was noted that the Respondent failed to maintain constant surveillance or use devices or administrative procedures to prevent unauthorized use of licensed or registered radioactive material that is in a controlled or unrestricted area that is not in storage. Specifically, during the course of the inspection, the Department's inspector was able to manually open the door with a coded lock without hindrance with no facility personnel in the nuclear medicine scan room and the Co-57 Source present on the gamma camera. The Co-57 source was unsecured for an estimated thirty (30) minutes. This is a violation of LAC 33:XV.445.B. **This is a repeat violation of Compliance Order and Notice of Potential Penalty Enforcement Tracking No. RE-CN-07-0005 issued by the Department on or about February 23, 2007, for a similar violation of leaving the hot lab unlocked and unattended during the early morning hours when radiopharmaceuticals were delivered to the hot lab as noted in Findings of Fact Paragraph II.A.**

- D. During the course of the inspection, it was noted that the Respondent failed to conduct quality control procedures in accordance with equipment manufacturer's recommendation or procedures that have been approved by the Department. Specifically, it was noted during the course of the inspection that the GE Medical Systems Gamma Camera, Model H3000WT Infinia GT, Serial No. 16984, displayed an error message stating, "Preliminary QC Results are Outside of Acceptance Limits." Further, a review of the Quality Control (QC) records stored in the computer memory indicated that the GE camera had been failing QC test(s) since April 25, 2011. This is a violation of LAC 33:XV.714. **This is a repeat violation** as cited in the Notice of Deficiency (NOD) issued by the Department on or about January 29, 2009.

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 ONE THOUSAND FIVE HUNDRED AND NO/100 DOLLARS (\$1,500.00), of which Five Hundred Sixty-Five and 61/100 Dollars (\$565.61) 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 Consolidated Compliance Order & 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

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in East Baton Rouge Parish, Louisiana. The advertisement, in form, wording, and size 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 from the newspaper of the affected parish 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.

IX

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).

X

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

XI

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.

LANE REGIONAL MEDICAL CENTER

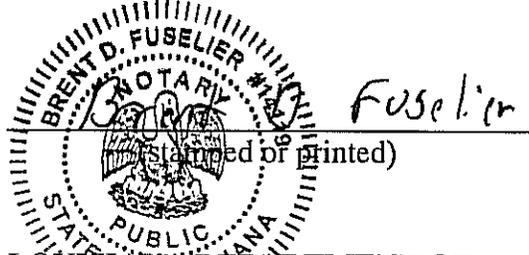
BY: [Signature]
(Signature)

RANDALL M. OLSON
(Printed)

TITLE: COO

THUS DONE AND SIGNED in duplicate original before me this 16 day of August, 20 12, at Zachary, LA.

[Signature]
NOTARY PUBLIC (ID # 14119)



LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 14th day of Jan, 20 13, at Baton Rouge, Louisiana.

[Signature]
NOTARY PUBLIC (ID # 19181)

Perry Theriot
(stamped or printed)

Approved: [Signature]
Cheryl Sonnier Nolan, Assistant Secretary