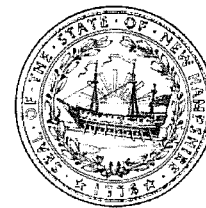




The State of New Hampshire  
**Department of Environmental Services**



**Clark B. Freise, Assistant Commissioner**

HCA Health Services of New Hampshire, Inc.  
HCA Legal Department  
P.O. Box 750  
Nashville, TN 37203

Re: Parkland Medical Center  
1 Parkland Drive, Derry, NH  
EPA ID #NHD510014020

**ADMINISTRATIVE FINE  
BY CONSENT**

**No. AF 17-011**

### **I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and HCA Health Services of New Hampshire, Inc. in accordance with RSA 147-A:17-a. This Administrative Fine by Consent is effective upon signature by the parties.

### **II. PARTIES**

1. The Department of Environmental Services, Waste Management Division is a duly-constituted administrative agency of the State of New Hampshire, having its main office at 29 Hazen Drive in Concord, New Hampshire.
2. HCA Health Services of New Hampshire, Inc. ("HCA") is a New Hampshire corporation doing business as *Parkland Medical Center* and having a mailing address of HCA Legal Department, P.O. Box 750, Nashville, TN 37203.

### **III. BACKGROUND**

1. RSA 147-A authorizes Department of Environmental Services ("DES") to regulate the management and disposal of hazardous waste. The Commissioner of DES has adopted NH CODE ADMIN RULES Env-Hw 100-1100 [was Env-Wm 100-1100] (the "Hazardous Waste Rules") to implement this program in accordance with RSA 147-A:3.
2. RSA 147-A:17-a authorizes the Commissioner of DES to impose fines of up to \$2,000 per offense for violations of RSA 147-A, or rules adopted in accordance with RSA 147-A:3.
3. HCA is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities at 1 Parkland Drive in Derry through DES on April 18, 2000. EPA assigned Identification No. NHD510014020 to the Parkland Medical Center located at 1 Parkland Drive in Derry, New Hampshire (the "Facility").
4. On February 9, 2015, DES personnel inspected the Facility for compliance with RSA 147-A and the Hazardous Waste Rules. As a result of the violations of the Hazardous Waste Rules

observed during this inspection, DES issued Letter of Deficiency (“LOD”) No. WMD 15-014 to HCA on May 15, 2015. DES amended and reissued LOD No. WMD 15-014 to HCA on August 5, 2016. Based on the violations observed during the inspection, and information provided to DES by HCA after the inspection, DES believes that an administrative fine is appropriate for the Class I violations.

#### IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. HCA has violated RSA 147-A:4, I, and Env-Hw 511.01(b), by disposing or causing to be disposed of at an unauthorized facility, hazardous MicroScan waste (“Violation 1”). RSA 147-A:17-a authorizes a fine of up to \$2,000 per disposal event. For settlement purposes only, DES proposes to include one count of disposal of hazardous MicroScan waste only, for a proposed fine of \$2,000 for this violation.
2. HCA has violated Env-Hw 502.01 by failing to conduct an adequate hazardous waste determination for the following waste streams at the Facility (“Violation 2”):
  - a. MicroScan Waste; and,
  - b. Waste Soda Lime/Sodium Hydroxide.

RSA 147-A:17-a authorizes a fine of up to \$2,000 per inadequate hazardous waste determination for a total proposed fine of \$4,000 for these violations.

3. HCA has violated Env-Hw 509.02(a)(2) by failing to document a training program that includes a written job description for each position at the Facility related to hazardous waste management (“Violation 3”). For settlement purposes only, DES does not propose a fine for these violations.
4. HCA has violated Env-Hw 510.03(a) by failing to use the correct New Hampshire hazardous waste code, *NH02*, for the Waste Soda Lime/Sodium Hydroxide on six hazardous waste manifests used to ship hazardous waste generated at the Facility (“Violation 4”). For settlement purposes only, DES proposes a fine of \$500 per incorrect manifest, for a total proposed fine of \$3,000 for these violations.
5. HCA has violated Env-Hw 512.02(h), and Env-Hw 512.02(g)(7), by failing to review for accuracy and/or correct any errors before certifying as accurate six quarterly reports covering timeframes when waste soda lime/sodium hydroxide solution was shipped from the Facility without the proper state waste code (“Violation 5”). For settlement purposes only, DES does not propose a fine for this violation.

#### V. PAYMENT, WAIVER OF HEARING

1. For settlement purposes, DES agrees not to pursue fines associated with Violations 3 and 5 because they are not Class I violations.
2. HCA agrees to pay the proposed fine in the amount of \$9,000 for Violations 1, 2, and 4, which are Class I violations, upon execution of this Administrative Fine by Consent by an authorized representative of HCA.
3. Payment shall be paid by certified check made payable to “Treasurer, State of New Hampshire” and mailed to: DES Legal Unit, Attn: Compliance Attorney, P.O. Box 95, Concord, NH 03302.

4. If any payment is made by check or money order that is returned due to insufficient funds, per RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

5. By executing this Administrative Fine by Consent, HCA waives its right to a hearing on or any appeal of the administrative fines identified in this Administrative Fine by Consent, and agrees that this Administrative Fine by Consent may be entered into and enforced by a court of competent jurisdiction.

6. The effective date of this Administrative Fine by Consent will be the date on which it is signed by an authorized representative of HCA, the Director of the Waste Management Division, and the Commissioner of DES.

7. No failure by DES to enforce any provision of this Administrative Fine by Consent after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this agreement on any further breach or default.

WHEREFORE, the parties voluntarily accept the terms of this Agreement.

**HCA Health Services of New Hampshire, Inc.**

**COPY**  
By: Jeffrey Scionti, CEO  
Parkland Medical Center  
Duly Authorized

5/16/17  
Date

**Department of Environmental Services**

**COPY**  
Michael J. Wimsatt, P.G., Director  
Waste Management Division

5/17/17  
Date

**COPY**  
Clark B. Freise, Assistant Commissioner

5/19/17  
Date

cc: DES Legal Unit  
RCRA/DB/AF  
Jeffrey Scionti, Parkland Medical Center

ec: Public Information Officer, DES PIP Office  
K. Allen Brooks, Chief, AGO-Environmental Protection Bureau  
Derry Select Board and Health Officer  
E. Molly Stark, HWMB/WMD/DES