

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

BATON ROUGE CARDIOLOGY  
CENTER, L.L.C.

AI # 24403

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

\* Settlement Tracking No.  
\* SA-RE-10-0020  
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\* Enforcement Tracking No.  
\* RE-CN-09-0010  
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SETTLEMENT

The following Settlement is hereby agreed to between Baton Rouge Cardiology Center, L.L.C. ("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 limited liability company that owns and/or operates a Diagnostic Nuclear Medicine facility located in Baton Rouge, East Baton Rouge Parish, Louisiana ("the Facility").

II

On July 23, 2009, the Department issued to Respondent a Consolidated Compliance Order and Notice of Potential Penalty, Enforcement No. RE-CN-09-0010, which was based upon the following findings of fact:

The Respondent owns and/or operates a Diagnostic Nuclear Medicine facility, Baton Rouge Cardiology Center, located at 5231 Brittany Drive in Baton Rouge, East Baton Rouge Parish,

Louisiana. The Respondent currently operates under Radioactive Material License LA-10159-L01 issued by the Department on October 24, 2008.

On or about April 15, 2009, an inspection was conducted at the Respondent's facility. The following violations were noted during the course of the inspection:

- A. During the course of the inspection it was noted that the Respondent was utilizing a patient injection chair in the Nuclear Medicine 'Hot Lab' where both radioactive material and radioactive waste is routinely stored. Further, the injection chair was positioned approximately two (2) feet from a medical waste bin surveyed by the Department resulting in a 5 mR/hr reading at the surface of the waste bin. Further, the right armrest of the patient injection chair was surveyed by the Department resulting in a reading of 65 mR/hr at the surface of the armrest. This is a violation of as low as reasonably achievable (ALARA) and LAC 33:XV.406.B.
- B. During the course of the inspection it was noted that the Respondent was utilizing a patient injection chair in the Nuclear Medicine 'Hot Lab' where both radioactive material and radioactive waste is routinely stored. A medical waste bin approximately two (2) feet from the patient injection chair was surveyed resulting in a reading of 5 mR/hr. Further, the right armrest of the patient injection chair was surveyed by the Department resulting in a reading of 65 mR/hr at the surface of the armrest. This is a violation of LAC 33:XV.421.A.2.
- C. During the course of the inspection it was noted that the Respondent contaminated gloves were discovered within an unlabeled trash can of the Nuclear Medicine 'Hot Lab.' The radiation survey conducted by the Department resulted in a reading of 12 mR/hr at the surface of the bottom of the trash can. The improper disposal of contaminated gloves prior to appropriate storage in the Lead Shielded Storage Area for decay to background levels is a violation of LAC 33:XV.320.A.2 and "Nuclear Medicine" Radioactive Materials License Application Attachment II Radiation Safety Manual Section C.a.
- D. During the course of the inspection, a radiation survey was conducted on an unlabeled, unshielded trash can in the Nuclear Medicine 'Hot Lab' that resulted in a survey reading of 12 mR/hr from the unlabeled, unshielded trash can. The improper packaging of waste material for disposal to avoid contamination and if necessary shielded for

exposure is a violation of LAC 33:XV.453.A, LAC 33:XV.728.A, LAC 33:XV.320.A.2 and "Nuclear Medicine" Radioactive Materials License Application Attachment II Radiation Safety Manual Section G.2.

- E. During the course of the inspection, the inspector observed an employee administering a radionuclide injection. Although the personnel was observed to be handling the radionuclide syringe with rubber gloves as personal protective equipment, a survey of the employee's hands after removal of the rubber gloves resulted in a survey reading of 0.5 to 7 mR/hr on the undersurface of the employee's hands. The employee was requested to wash their hands several times with soap and water, which was done four (4) to five (5) times, with a subsequent survey of the same area of the undersurface of the employee's hands resulting in a survey reading of 0.5 mR/hr. A further survey of the same employee's shoes resulted in a survey reading of 50 mR/hr on the sole of the left shoe and 85 mR/hr on the surface of the front left side of the right shoe. The employee was requested to remove the right shoe, and it was placed in a labeled plastic bag with date, time and surface radiation survey reading and placed on top of the medical waste container behind the L-shield in the Nuclear Medicine 'Hot Lab' for half-life decay. The Respondent's employee failed to survey their hands and clothing when there was a reasonable chance that her hands or clothing had been contaminated, and the Respondent's employee further failed to notify the Radiological Safety Officer for assistance after the discovery of the contamination. This is a violation LAC 33:XV.320.A.2 and "Nuclear Medicine" Radioactive Materials License Application Attachment II Radiation Safety Manual Section C.b.
- F. During the course of the inspection it was noted that the Respondent had two syringe "pigs" containing syringes with Myoview dose residue stored in open containers in the hallway outside of the Nuclear Medicine 'Hot Lab,' that when surveyed one of the "pigs" resulted in a reading of 50 mR/hr. Further, the Nuclear Medicine 'Hot Lab' was left open with a key hanging from the door knob while 23 doses of Myoview with 10 to 30 mCi of Tc-99m each were being stored unsecured on a counter in front of the L-shield within the open Nuclear Medicine 'Hot Lab.' This is a violation of LAC 33:XV.445.A.

### 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 FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00), of which One Thousand Five Hundred One and 65/100 Dollars (\$1,501.65) 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 and 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 LSA- 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 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.

**BATON ROUGE CARDIOLOGY  
CENTER, L.L.C.**

BY: *Martin J. Fischer*  
(Signature)

Martin J. Fischer  
(Print)

TITLE: Administrator

THUS DONE AND SIGNED in duplicate original before me this 20 day of  
September, 20 10, at EBR parish.

*Brenda B. Daigle #80040*  
NOTARY PUBLIC (ID # 80040)

Brenda B. Daigle  
(Print)

**LOUISIANA DEPARTMENT OF  
ENVIRONMENTAL QUALITY**

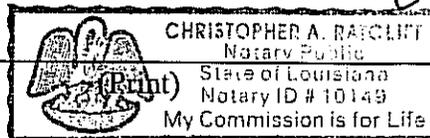
Peggy M. Hatch, Secretary

BY: *[Signature]*

Beau James Brock., Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this 14th day of  
January, 20 11, at Baton Rouge, Louisiana.

*Christopher A. Raclint*  
NOTARY PUBLIC (ID # [Signature])



Approved: *[Signature]*

Beau James Brock., Assistant Secretary