



Indiana Department of Environmental Management

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Michael R. Pence
Governor

Carol S. Comer
Commissioner

STATE OF INDIANA) SS: BEFORE THE INDIANA DEPARTMENT OF
)
 COUNTY OF MARION) ENVIRONMENTAL MANAGEMENT
)
 COMMISSIONER OF THE DEPARTMENT)
 OF ENVIRONMENTAL MANAGEMENT,)
)
 Complainant,)
)
 v.) Case No. 2016-23569-S
)
 MEDASSURE OF INDIANA LLC,)
)
 Respondent.)

AGREED ORDER

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to IC 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

I. FINDINGS OF FACT

1. Complainant is the Commissioner ("Complainant") of the Indiana Department of Environmental Management ("IDEM"), a department of the State of Indiana created by Indiana Code ("IC") 13-13-1-1.
2. Respondent is MedAssure of Indiana LLC ("Respondent"), which owns and operates the company with Solid Waste Facility Permit FP 49-61, ("Permit") located at 1013 South Girls School Road, in Indianapolis, Marion County, Indiana ("Site").
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. Respondent waives the issuance of a Notice of Violation ("NOV") and the settlement period of sixty (60) days as provided for by IC 13-30-3-3.

5. Respondent receives infectious waste and treats it with microwaves and steam before transporting it to a final disposal facility. On January 11, 2012, Respondent was issued an approval of its Solid Waste Facility Permit, FP 49-61, by IDEM. Respondent's Permit expires on January 5, 2017.
6. During an investigation, including a record review on January 11, 2016, conducted by a representative of IDEM, the following violations were found:

- a. Pursuant to Permit Requirement A2., the permittee must operate the facility as described in the application and in the additional information submitted unless otherwise specified by the permit.

Respondent accepted medical waste which it was not permitted to accept during a time period between September 2012 and January 2016.

- b. Pursuant to Permit Requirement D3., the permittee must not accept the following types of medical waste: chemotherapy waste; fetal remains; human torsos; corrosive, reactive, toxic, radiologic, or radioactive waste; metal pieces such as links, bolts, or ball sockets; mercury or mercury-containing waste; P-listed and U-listed hazardous waste, as well as other hazardous materials; or other hazardous waste and hazardous substances regulated under 329 IAC 3.1. The permittee must inform all customers that the facility is not authorized to accept or process these wastes.

Respondent accepted medical waste which it was not permitted to accept during a time period between September 2012 and January 2016. Respondent accepted medical waste under contracts with Pathology Services, Inc. and various other companies. Respondent accepted between three and six 31-gallon containers of medical waste per week from Pathology Services, Inc. over a period of time between September 2012 and January 2016. During the investigation, it was discovered that some of the containers of medical waste accepted by Respondent from Pathology Services, Inc. contained fetal remains. Respondent had not informed Pathology Services, Inc. that it was not authorized to accept or process this medical waste.

When Respondent become aware that is had accepted medical waste which was not approved in its Permit, Respondent submitted a letter, dated January 5, 2016, to Pathology Services, Inc. indicating that it was prohibited from accepting certain medical waste and requiring that the prohibited waste be segregated from other medical waste and not be sent to Respondent.

7. In recognition of the settlement reached, Respondent waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective ("Effective Date") when it is approved by Complainant or Complainant's delegate, and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with the permit conditions listed in the findings above.
3. Respondent shall only accept waste that it is allowed to accept and shall not accept any waste that is prohibited by its Permit.
4. Within thirty (30) days of the Effective Date, Respondent shall submit a copy of its revised contract with Pathology Services, Inc. which incorporates a list of medical waste prohibited from acceptance by Respondent to IDEM.
5. All submittals required by this Agreed Order, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

Nancy Johnston, Enforcement Section Chief
Office of Land Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251

6. Respondent is assessed and agrees to pay a civil penalty of Eleven Thousand Two Hundred Fifty (\$11,250). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the 30th day being the "Due Date".
7. In the event the terms and conditions of the following paragraph is violated, Complainant may assess and Respondent shall pay a stipulated penalty in the following amount:

Order Paragraph 4	\$100 per week late
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8. Stipulated penalties shall be due and payable no later than the 30th day after Respondent receives written notice that Complainant has determined a stipulated penalty is due; the 30th day being the "Due Date". Complainant may notify Respondent at any time that a stipulated penalty is due. Failure to notify Respondent in writing in a timely manner of stipulated penalty assessment shall not waive Complainant's right to collect such stipulated penalty or preclude Complainant from seeking additional relief against Respondent for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude Complainant from seeking additional relief against Respondent for a violation of this Agreed Order; such additional relief includes any remedies or sanctions available pursuant to Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.

9. Civil and stipulated penalties are payable by check to the “Environmental Management Special Fund.” Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management
Office of Legal Counsel
IGCN, Room N1307
100 North Senate Avenue
Indianapolis, IN 46204

10. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. Such interest shall be payable to the Environmental Management Special Fund, and shall be payable to IDEM in the manner specified in Paragraph 9, above.
11. This Agreed Order shall apply to and be binding upon Respondent and its successors and assigns. Respondent’s signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent. No change in ownership, corporate, or partnership status of Respondent shall in any way alter its status or responsibilities under this Agreed Order.
12. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
13. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred. Respondent shall ensure that all contractors, firms and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
14. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM’s review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of its obligation to comply with the requirements of its applicable permits or any applicable Federal or State law or regulation.
15. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent’s compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent’s efforts to comply with this Agreed Order.
16. Nothing in this Agreed Order shall prevent or limit IDEM’s rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that

IDEM may not, and hereby waives its right to, seek additional civil penalties for the same violations specified in the Findings above.

17. This Agreed Order shall remain in effect until IDEM issues a Resolution of Case letter to Respondent.

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TECHNICAL RECOMMENDATION:
Department of Environmental Management

By: Nancy Johnston
Nancy Johnston, Section Chief
Enforcement Section
Office of Land Quality

Date: 2/5/16

RESPONDENT:

By: _____

Printed: _____

Title: _____

Date: _____

COUNSEL FOR RESPONDENT:

By: _____

Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT THIS _____ DAY OF _____, 20__.

For the Commissioner:

Bruce H Palin
Assistant Commissioner
Office of Land Quality