

THE STATE OF SOUTH CAROLINA  
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

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IN RE: GREENVILLE WOMEN'S CLINIC PA  
SC23-0410G  
GREENVILLE COUNTY

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ADMINISTRATIVE ORDER  
18 – 10 – IW

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This Administrative Order is issued by the South Carolina Department of Health and Environmental Control (Department) to resolve the violations presented herein regarding the South Carolina Infectious Waste Management Act, S.C. Code Ann. § 44-93-10 et seq. (2002) (Act), and the South Carolina Infectious Waste Management Regulations, S.C. Code Ann. Regs. 61-105 (2012) (SCIWMR).

**FINDINGS OF FACT**

1. Greenville Women's Clinic PA (Greenville Women's) is a generator of infectious waste and provides services at its facility located at 1142 Grove Road, Greenville, South Carolina. Greenville Women's has been registered in South Carolina as a generator of infectious waste since December 5, 1992.
2. Greenville Women's registration with the Department states that it generates between 50 and 999 pounds of infectious waste in a calendar month. Therefore, the Department considers it a large quantity generator.
3. On December 8, 2017, the Department received a complaint alleging that Greenville Women's transported infectious waste to the Quick Trip gas station located at 1509 Grove Road, Greenville, South Carolina on June 21, 2017, October 4, 2017, and October

18, 2017, and that the waste was transferred to Stericycle, Inc. (Stericycle), a registered South Carolina infectious waste transporter. The complainant provided pictures, written documentation, and video to the Department. A subsequent complaint was received on March 5, 2018, addressing waste transferred at the Quick Trip on January 10 and January 31, 2018.

4. The Department investigated the complaint to determine Greenville Women's compliance with the applicable statutes and regulations. During the investigation, the Department discovered and documented violations of the SCIWMR. These violations are stated in the following paragraphs of this section.
5. The Department performed a thorough review of the information and the documentation provided for the complaint against Greenville Women's, and found the following:
  - a. On June 21, 2017, a representative of Greenville Women's transported infectious waste from Greenville Women's to the Quick Trip gas station in an unlabeled, black Toyota Tacoma pickup truck, license plate number MEX793. The representative of Greenville Women's removed a biohazard marked box from the passenger seat of the vehicle, and the Stericycle driver accepted the waste for transportation and loaded it onto the transport vehicle. According to Manifest MDCA00H0WE, dated June 21, 2017, Stericycle picked up and transported infectious waste generated by Greenville Women's for treatment and disposal;
  - b. On October 4, 2017, a representative of Greenville Women's transported infectious waste from Greenville Women's to the Quick Trip gas station in an unlabeled, blue Jeep Grand Cherokee SUV. The representative of Greenville Women's removed a biohazard marked box from the back of the vehicle, and the

Stericycle driver accepted the waste for transportation and loaded it onto the transport vehicle number C6131035. According to Manifest MDCA00HHL8, dated October 4, 2017, Stericycle picked up and transported infectious waste generated by Greenville Women's for treatment and disposal;

c. On October 18, 2017, a representative of Greenville Women's transported infectious waste from Greenville Women's to the Quick Trip gas station in an unlabeled, black Toyota Tacoma pick-up truck, license plate number MEX793. The representative of Greenville Women's removed a biohazard marked box from the passenger seat of the vehicle, and the Stericycle driver accepted the waste for transportation and loaded it onto the transport vehicle. According to Manifest MDCA00HJYV, dated October 18, 2017, Stericycle picked up and transported infectious waste generated by Greenville Women's for treatment and disposal; and,

d. On January 10 and January 31, 2018, a representative of Greenville Women's transported infectious waste from Greenville Women's to the Quick Trip gas station, and the Stericycle driver accepted the waste for transportation and loaded it onto the transport vehicle. According to Manifests MDCA00HXFD, dated January 10, 2018 and MDCA00I0S4, dated January 31, 2018, Stericycle picked up and transported infectious waste generated by Greenville Women's for treatment and disposal.

6. Greenville Women's transferred infectious waste from its transport vehicle to the Stericycle transport vehicle at the Quick Trip gas station, which is not a designated transfer facility.

7. Greenville Women's was not registered with the Department as an infectious waste transporter and had not paid the annual transporter fees.
8. Greenville Women's did not have an infectious waste management plan nor did it submit a draft of the plan along with an application to register as an infectious waste transporter.
9. On March 6, 2018, the Department issued Greenville Women's a Notice of Alleged Violation/Notice of Enforcement Conference (NOAV).
10. On March 14, 2018, the attorney for Greenville Women's provided a letter to the Department stating that neither he nor the physicians for the facility would be available to attend the scheduled conference, but could be available by phone; and, that Greenville Women's does not dispute the factual allegations in the NOAV.
11. The enforcement teleconference was held on March 21, 2018. During the conference, the Greenville Women's attorney stated the following to the Department:
  - a. Its licensed transporter on occasion would refuse to enter the premises and specifically requested that the package be delivered to them at the Quick Trip gas station; and,
  - b. In each instance, the amount of waste transported to the Quick Trip gas station was less than the amount that could be transported lawfully by a small quantity generator.
12. In a March 21, 2018 letter to the Department, the Greenville Women's attorney provided additional information stating that upon being made aware of the violation, his client immediately ceased delivering any packaged waste offsite.
13. On April 13, 2018, the Department emailed to the Greenville Women's attorney, a Proposed Consent Order regarding the violations outlined in the March 6, 2018 NOAV

referenced in Findings of Fact 9. The Department requested a reply from Greenville Women's by April 27, 2018, to discuss the terms of the Proposed Consent Order.

14. On April 17, 2018, the Department received a response from the Greenville Women's attorney requesting that the Department to make some revisions to the Proposed Consent Order prior to engaging in a civil penalty discussion.
15. On April 26, 2018, the Department received an email from the Greenville Women's attorney stating that Greenville Women's had declined the offer to pay the civil penalty for the violations cited in the Proposed Consent Order. As referenced in Findings of Fact 10., Greenville Women's did not dispute the factual allegations in the NOAV.
16. On May 21, 2018, the Department issued a letter to the Greenville Women's attorney notifying Greenville Women's of the Department's intent to issue an Administrative Order for the violations of the SCIWMR. The letter was sent via email and certified mail. The certified mail was delivered and signed for on May 23, 2018.

## **APPLICABLE LAW**

### **STATUTES:**

1. S.C. Code Ann. § 44-93-140 provides: "Following the promulgation of the regulations required pursuant to Section 44-93-30, it is unlawful for a person to fail to comply with this chapter or with a procedure or requirement set forth in the regulations."
2. S.C. Code Ann. § 44-93-150(A) provides: "Whenever the department finds that a person is in violation of a permit, regulation, standard, or requirement under this chapter, the department may issue an order requiring the person to comply . . . . The Department

also may invoke civil penalties as provided in this section for violations of the provisions of this chapter, including an order, permit, regulation, or standard.”

3. S.C. Code Ann. § 44-93-150(B) provides: “A person who violates a provision of § 44-93-140 is liable for a civil penalty not to exceed ten thousand dollars a day of violation.”

### **REGULATIONS:**

1. R.61-105.N(1) provides: “Transporters of infectious waste which is generated, stored, transferred or treated within South Carolina must be registered with the Department prior to such activity unless otherwise provided by this regulation.”
2. R.61-105.N(2) provides: “Generators who transport their own infectious waste offsite, except those generators who qualify as small quantity generators in Section G of this regulation, must also comply with all applicable transporter requirements of this regulation.”
3. R.61-105.N(3)(a) provides: “Transporters of infectious waste must comply with all applicable requirements of this regulation during transportation and when the waste is at a transfer facility. Infectious waste may be transferred from one vehicle to another only at a designated transfer facility.”
4. R.61-105.N(6) provides: “Transporters must develop a written infectious waste management plan which must address at a minimum: (a) a spill plan; (b) contingency plans for alternate treatment, storage and or disposal sites; (c) handling and storage of waste; and, (d) personnel health and safety training.”
5. R.61-105.N(7), provides: “A draft of the plan required in Section N (6) must accompany the annual registration application.”

6. R.61-105.O (1) provides: "Each transporter or transfer facility operator must register with the Department."
7. R.61-105.O (2) provides: "No person shall engage or continue to engage in transportation of infectious waste (except as outlined in Section N(2)) in South Carolina unless they register annually with the Department as an infectious waste transporter, and pay applicable fees as outlined in Section DD."
8. R.61-105.Q(1)(a) provides: "Each vehicle used to transport infectious waste shall have a fully enclosed, leak resistant cargo-carrying body which protects the waste from animals, vectors, weather conditions, and minimizes exposure to the public."
9. R.61-105.Q(1)(d) provides: "Each vehicle used to transport infectious waste shall have a cargo-carrying body designed to prevent discharges of infectious waste, especially fluids, into the environment."
10. R.61-105.Q(1)(g) provides: "Each vehicle used to transport infectious waste must have identification be permanently affixed to the cargo-carrying body on two sides and the back in letters a minimum of three (3) inches in height which state: the name of the transporter, the transporter's Department issued registration number; and the words INFECTIOUS WASTE, MEDICAL WASTE, or BIOHAZARDOUS WASTE."
11. R.61-105.Q(1)(h) provides: "Each vehicle used to transport infectious waste must have the biohazard symbol sign be permanently affixed to the cargo-carrying body on two sides and the front and back."

## CONCLUSIONS OF LAW

Based upon the above findings, the Department concludes that Greenville Women's violated the South Carolina Infectious Waste Management Regulations, S.C. Code Ann. Regs. 61-105 (2012), promulgated pursuant to the South Carolina Infectious Waste Management Act, S.C. Code Ann. § 44-93-10 et seq. (2002), as follows:

1. Greenville Women's violated R.61-105.N(1), by transporting infectious waste within South Carolina without being registered with the Department (see Findings of Facts 5a. - 5d. and 7.);
2. Greenville Women's violated R.61-105.N(2), by failing to comply with all the applicable transporter requirements in Section G of this regulation (see Findings of Fact 5a. - 5d.);
3. Greenville Women's violated R.61-105.N(3)(a), by failing to ensure that infectious waste is only transferred from one vehicle to another at a designated transfer facility (see Findings of Facts 5a. - 5d. and 6.);
4. Greenville Women's violated R.61-105.N(6), by failing to develop a written infectious waste management plan (see Findings of Fact 8.);
5. Greenville Women's violated R.61-105.N(7), by failing ensure that a draft of the plan required in Section N(6) accompany the annual registration application (see Findings of Fact 8.);
6. Greenville Women's violated R.61-105.O (1), by failing to register with the Department as a transporter (see Findings of Fact 7.);
7. Greenville Women's violated R.61-105.O(2), by engaging in the transportation of infectious waste (except as outlined in Section N(2)) in South Carolina without



registering annually with the Department as an infectious waste transporter, and paying applicable fees as outlined in Section DD (see Findings of Facts 5a. - 5d. and 7.);

8. Greenville Women's violated R.61-105.Q(1)(a, d, g-h), by failing to ensure that each vehicle used to transport infectious waste meet these requirements: (a) have a fully enclosed, leak resistant cargo-carrying body which protects the waste from animals, vectors, weather conditions, and minimizes exposure to the public; (d) have a cargo-carrying body be designed to prevent discharges of infectious waste, especially fluids into the environment; (g) have identification that is permanently affixed to the cargo-carrying body on two sides and the back in letters that at a minimum are three (3) inches in height which state the name of the transporter, the transporter's Department issued registration number, and the words INFECTIOUS WASTE, MEDICAL WASTE, or BIOHAZARDOUS WASTE; and, (h) have the biohazard symbol sign permanently affixed to the cargo-carry body on two sides and the front and back (see Findings of Fact 5a. - 5d.); and,
9. Upon information and belief, the Department concludes that Findings of Fact 11b., is not an accurate statement.

**NOW, THEREFORE, IT IS ORDERED**, that pursuant to S.C. Code Ann. §§ 44-93-140 and 44-93-150(A), Greenville Women's shall:

1. Now, and in the future, comply with the South Carolina Infectious Waste Management Act and Regulations; and,
2. Within thirty (30) days of the effective date of this Administrative Order, pay a civil penalty in the amount of nineteen thousand dollars (\$19,000.00).

The payment of the penalty amount must be in the form of a check payable to SCDHEC with the number of the Order (18-10-IW), and Registration #SC23-0410G written on the check. All communication regarding this Order and its requirements shall be addressed to:

SCDHEC – BLWM  
Division of Compliance and Enforcement  
Enforcement Section  
Attn: Lorria Caswell  
2600 Bull Street, Columbia, SC 29201-1708.

**IT IS ORDERED** that this Administrative Order governs only Greenville Women’s civil liability to the Department for civil sanctions arising from the matters set forth herein.

**IT IS FURTHER ORDERED** that any failure to meet any deadlines established herein or any other violation of the provisions of this Administrative Order shall be deemed a violation of the South Carolina Infectious Waste Management Act (2002). Upon ascertaining any such violation(s), the Department may initiate action to obtain compliance with this Administrative Order, the Regulations, and the Act.

Pursuant to S.C. Code §44-1-60, this decision of the Department becomes the final agency decision fifteen (15) days after notice of the decision has been mailed, unless a written request for final review is filed with the Department by the applicant, permittee, licensee, or affected person.

**IT IS SO ORDERED.**

FOR THE SOUTH CAROLINA DEPARTMENT  
OF HEALTH AND ENVIRONMENTAL CONTROL

*Myra C. Reece*

Myra C. Reece  
Director of Environmental Affairs

Date: 6/25/18

*Daphne G. Neel*

Daphne G. Neel, Chief  
Bureau of Land and Waste Management

Date: 6/19/18

*Etta R. Williams-Linen*

Reviewed By: Attorney, Office of General Counsel

Date: 6/20/2018