



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**
RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE
(302) 739-9000

**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to 7 *Del. C.* §§ 6005(b)(2) and (b)(3)

Order No. 2023-WH-0025

VIA CERTIFIED MAIL, RETURN RECEIPT

Issued To:

Iris Verdi
Director of Environmental Services
Beebe Healthcare, Inc.
424 Savannah Road
Lewes, DE 19958

Registered Agent:

Bruce Leshine
424 Savannah Road
Lewes, DE 19958

Dear Ms. Verdi:

The Secretary of the Department of Natural Resources and Environmental Control ("Department") has found Beebe Healthcare, Inc. ("Respondent" or "Beebe") in violation of 7 *Del. C.* Chapters 60 and 63, and 7 DE Admin. Code § 1302, Delaware's *Regulations Governing Hazardous Waste* ("DRGHW"). Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment and Secretary's Order ("Secretary's Order"), pursuant to 7 *Del. C.* § 6005.

BACKGROUND

Beebe Healthcare, Inc. operates a hospital located at 424 Savannah Road, Lewes, Delaware 19958 ("Facility"). During the operation of its Facility, Respondent generates hazardous waste. As such, Respondent is subject to compliance inspections conducted by the Department's Compliance and Permitting Section ("CAPS"), pursuant to 7 DE Admin. Code § 1302.

On March 16, 2023, the Department conducted a compliance inspection at the Facility. At the time of the inspection, Respondent was classified as a large quantity generator ("LQG")¹ of hazardous waste and a healthcare facility.² The Facility is assigned EPA ID number DED106364219. Based on the information gathered during the inspection, the Department found Respondent to be in violation of applicable state statutes and regulations governing the generation and management of hazardous waste.

The Department notified Respondent of the violations identified during the inspection by issuing Notice of Violation No. 23-HW-09 ("NOV"), dated April 25, 2023. The NOV documented 11 violations of DRGHW and was received by the Respondent on April 28, 2023.

Respondent corrected 10 of the 11 violations prior to issuance of the NOV. On May 10, 2023, Respondent submitted documentation to the Department demonstrating that it corrected the remaining violation.

¹ Generators of more than 1,000 kilograms (2,200 pounds) of hazardous waste in any calendar month are large quantity generators (Delaware's *Regulations Governing Hazardous Waste*, Section 260.10, 2021).

² The term "healthcare facility" includes any person that is lawfully authorized to provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body (Delaware's *Regulations Governing Hazardous Waste*, Section 266.500, 2021).

FINDINGS OF FACT AND VIOLATION INCLUDING REGULATORY REQUIREMENTS

1. DRGHW Section 266.502(e) states:

“(e) Labeling containers used to accumulate non-creditable hazardous waste pharmaceuticals at healthcare facilities. A healthcare facility must label or clearly mark each container of non-creditable hazardous waste pharmaceuticals with the phrase ‘Hazardous Waste Pharmaceuticals.’”

On March 16, 2023, Department representatives observed one (1) 5-gallon black plastic container in the Facility's Pharmacy and one (1) 5-gallon black plastic container in the Facility's Trash Room used to accumulate non-creditable hazardous waste pharmaceuticals.³ Neither container was labeled. Failure to label the containers with the words “Hazardous Waste Pharmaceuticals” is a violation of DRGHW Section 266.502(e).

During the inspection on March 16, 2023, Respondent corrected this violation to the Department's satisfaction.

2. DRGHW Section 266.502(c) states:

“(c) Hazardous waste determination for non-creditable pharmaceuticals. A healthcare facility that generates a solid waste that is a non-creditable pharmaceutical must determine whether that pharmaceutical is a hazardous waste pharmaceutical (i.e., it exhibits a characteristic identified in Part 261 Subpart C or is listed in Part 261 Subpart D) in order to determine whether the waste is subject to this subpart. A healthcare facility may choose to manage its non-hazardous waste pharmaceuticals as non-creditable hazardous waste pharmaceuticals under this subpart.”

³ “Non-creditable hazardous waste pharmaceutical” means a prescription hazardous waste pharmaceutical that does not have a reasonable expectation to be eligible for manufacturer credit or a nonprescription hazardous waste pharmaceutical that does not have a reasonable expectation to be legitimately used/reused or reclaimed. This includes but is not limited to, investigational drugs, free samples of pharmaceuticals received by healthcare facilities, residues of pharmaceuticals remaining in empty containers, contaminated personal protective equipment, floor sweepings, and clean-up material from the spills of pharmaceuticals. (Delaware's *Regulations Governing Hazardous Waste*, Section 266.500., 2021)

On March 16, 2023, Department representatives observed a 15-gallon purple plastic container in the Pharmacy that was being used to accumulate waste pharmaceutical inhalers. The purple container was labeled "Pharmaceutical Waste for Incineration" and Facility representatives stated that purple containers were only to be used to collect non-hazardous waste pharmaceuticals. Department representatives pointed out that the container was marked "Pharmaceutical Waste for Incineration" and asked Respondent's staff if their disposal facility would accept inhalers for incineration. Respondent's representatives contacted their waste management contractor and were advised that waste inhalers are considered hazardous waste and should be placed in a black plastic container. Failure to make an accurate hazardous waste determination on non-creditable hazardous waste pharmaceuticals is a violation of DRGHW Section 266.502(c).

On March 21, 2023, Respondent submitted documentation to the Department demonstrating correction of this violation to the Department's satisfaction.

3. DRGHW Section 262.15(a)(5)(i) states in part:

"(a) A generator may accumulate as much as 55 gallons of non-acute hazardous waste and/or either one quart of liquid acute hazardous waste listed in §261.31 or §261.33(e) of these regulations or 1 kilogram (≈2.2 pounds) of solid acute hazardous waste listed in §261.31 or §261.33(e) of these regulations in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator(s) of the process generating the waste, without a permit or interim status and without complying with the requirements of Parts 124, 264 through 266, and 122 of these regulations, provided that all of the conditions for exemption in this section are met. A generator may comply with the conditions for exemption in this section instead of complying with the conditions for exemption in §262.16(b) or §262.17(a), except as required in §262.15(a)(7) and (8). The conditions for exemption for satellite accumulation are: ...

(5) A generator must mark or label its container with the following:

(i) The words 'Hazardous Waste' ..."

On March 16, 2023, Department representatives observed four (4) closed 5-gallon plastic safety cans of hazardous waste spent solvents in the Facility's Histology Lab and two (2) closed 5-gallon plastic containers of hazardous waste diaminobenzidine ("DAB") in the Facility's Immunohistochemistry (IHC) Room. Both areas are considered satellite accumulation areas. None of the containers were labeled with the words "Hazardous Waste." Failure to label a satellite accumulation container with the words "Hazardous Waste" is a violation of DRGHW Section 262.15(a)(5)(i).

During the inspection on March 16, 2023, Respondent corrected this violation to the Department's satisfaction.

4. DRGHW Section 262.17(a)(5)(i)(B) states:

"(a) Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in paragraphs (b) through (e) of this section. The following accumulation conditions also apply: ...

(i) Containers. A large quantity generator must mark or label its containers with the following: ...

(B) An indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR Part 172 Subpart E (labeling) or Subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704); ..."

On March 16, 2023, Department representatives observed the following hazardous waste containers in the Facility's Garage/Chemical Shed, which is a central accumulation area⁴:

1. 55-gallon red metal drum of DAB;
2. 55-gallon gray metal drum of silver stain; and
3. 55-gallon plastic drum of contaminated personal protective equipment.

None of the drums were labeled to identify the hazards of the contents. Failure to label a container in a central accumulation area with an indication of the hazards of the contents is a violation of DRGHW Section 262.17(a)(5)(i)(B).

During the inspection on March 16, 2023, Respondent corrected this violation to the Department's satisfaction.

5. DRGHW Section 262.17(a) states:

"A large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of Parts 124, 264 through 266, and 122 of these regulations, or the notification requirements of 7 Del.C. §6304(a), provided that all of the following conditions for exemption are met:

(a) Accumulation. A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in paragraphs (b) through (e) of this section."

DRGHW Section 122.1(c) states:

"(c) Scope of the hazardous waste permit requirement. DNREC requires a permit for the 'treatment', 'storage', and 'disposal' of any 'hazardous waste' as identified or listed in Part 261."

⁴ "Central accumulation area" means any on-site hazardous waste accumulation area with hazardous waste accumulating in units subject to either §262.16 (for small quantity generators) or §262.17 (for large quantity generators) of these regulations. (Delaware's *Regulations Governing Hazardous Waste*, Section 260.10, 2021)

On March 16, 2023, Department representatives observed a 55-gallon plastic drum containing Formical 4, a corrosive hazardous waste. The drum was closed, labeled, and marked with an accumulation start date of July 7, 2022. At the time of the March 16, 2023, inspection, the drum had been accumulating for 253 days, which far exceeded the 90-day accumulation limit afforded to LQGs in DRGHW Section 262.17(a).

Because Respondent did not comply with the conditions in DRGHW Section 262.17(a) which only allow accumulation of a hazardous waste for 90 days or less to be exempt from the permitting requirements of DRGHW Part 122, the Department determined that Respondent was operating a hazardous waste storage facility without a permit. Operating a hazardous waste storage facility without a permit is a violation of DRGHW Section 122.1(c).

On March 27, 2023, Respondent submitted documentation to the Department demonstrating correction of this violation to the Department's satisfaction.

6. DRGHW Section 262.40(a) states:

“(a) A generator must keep a copy of each manifest signed in accordance with §262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.”

On March 16, 2023, Department representatives identified that Respondent had not retained signed copies from the designated facilities for the following manifests:

Manifest Tracking Number	Shipped Date
002000064VES	January 11, 2022
002044409VES	January 17, 2022
002153913VES	June 24, 2022
002153914VES	June 24, 2022
002152800VES	July 29, 2022
002152801VES	July 29, 2022
002152802VES	July 29, 2022

Failure to maintain designated facility-signed manifest copies is a violation of DRGHW Section 262.40(a).

On March 21, 2023, Respondent submitted documentation to the Department demonstrating correction of this violation to the Department's satisfaction.

7. DRGHW Section 262.11 states in part:

"A person who generates a solid waste, as defined in §261.2, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to these regulations."

On March 16, 2023, Department representatives observed Manifest 016303848FLE that documented a waste shipment with the shipping description of "UN2924, Flammable liquids, corrosive, n.o.s. (ethanol, acetic acid)." The manifest did not identify any hazardous waste codes which indicates that the waste was shipped as non-hazardous waste. Since the shipping description included the words "flammable" and "corrosive," Department representatives inquired why the waste was considered non-hazardous and requested a copy of the waste profile⁵ referenced on the manifest.

⁵ A waste profile is a form that identifies the chemical properties of the waste requiring disposal. A waste profile is completed by a waste generator and is submitted to a disposal facility to determine if the disposal facility is capable of accepting and processing the waste. Waste profiles are specific to an individual waste generator and an individual waste stream.

In an email dated March 24, 2023, Respondent provided a copy of the manifest and the waste profile. The waste profile indicated that the waste had a flashpoint less than 73°F, a pH less than 2, and a toxicity leaching characteristic procedure (TCLP) silver concentration of 5.0 mg/L. A flashpoint of less than 73 degrees Fahrenheit indicates ignitable waste. A pH less than 2 indicates that a waste is corrosive, and a TCLP silver concentration equal to or greater than 5.0 mg/L indicates that a waste is toxic due to the presence of silver. Waste that is ignitable, corrosive, and toxic due the presence of silver is hazardous waste and should bear the waste codes D001 (ignitability), D002 (corrosivity), and D011 (toxicity due to silver). Notwithstanding that fact, Respondent's waste profile indicated the waste was not a hazardous waste.

Failure to make an accurate hazardous waste determination is a violation of DRGHW Section 262.11.

On May 10, 2023, Respondent submitted documentation to the Department demonstrating correction of this violation to the Department's satisfaction.

8. DRGHW Section 262.261 states:

“Section 262.261 Content of contingency plan.

- (a) The contingency plan must describe the actions facility personnel must take to comply with §§262.260 and 262.265 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.*
- (b) If the generator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR Part 112, or some other emergency or contingency plan, it need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the standards of this part. The generator may develop one contingency plan that meets all regulatory standards. The Department recommends that the plan be based on the National Response Team's Integrated Contingency Plan Guidance (“One Plan”).*
- (c) The plan must describe arrangements agreed to with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers, local hospitals or, if applicable, the Local Emergency Planning Committee, pursuant to §262.256.*
- (d) The plan must list names and emergency telephone numbers of all persons qualified to act as emergency coordinator (see §262.264), and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates. In situations where the generator facility has an emergency coordinator continuously on duty because it operates 24 hours per day, every day of the year, the plan may list the staffed position (e.g., operations manager, shift coordinator, shift operations supervisor) as well as an emergency telephone number that can be guaranteed to be answered at all times.*
- (e) The plan must include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.*
- (f) The plan must include an evacuation plan for generator personnel where there is a possibility that evacuation could be necessary. This plan must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).”*

On March 16, 2023, Department representatives reviewed Respondent's Hazardous Materials and Waste Plan and determined that its plan did not include the required components of a hazardous waste contingency plan. Specifically, the following information was missing:

1. An updated list of emergency coordinators. J. Buck was listed as the Site Safety Officer/Emergency Coordinator; however, Respondent stated that he was no longer in that position. Therefore, an up-to-date list of emergency coordinators was not included.
2. The Hazardous Materials and Waste Plan included a list of spill kits, their contents, and their location, but it did not include a mandatory description of all emergency equipment, including fire extinguishing systems, alarm systems, and decontamination equipment.
3. The Hazardous Materials and Waste Plan did not include an evacuation plan.

Failure to include the required information in the contingency plan is a violation of DRGHW Section 262.261.

On March 27, 2023, Respondent submitted documentation to the Department demonstrating correction of this violation to the Department's satisfaction.

9. DRGHW Section 262.262(b) states:

“(b) A large quantity generator that first becomes subject to these provisions after January 21, 2021 or a large quantity generator that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified in paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee.”

On March 16, 2023, Department representatives reviewed Respondent's Hazardous Materials and Waste Plan referenced in Violation #8. Because the Hazardous Materials and Waste Plan, which was functioning as the hazardous waste contingency plan, was amended after January 21, 2021, Respondent was also required to submit a quick reference guide of the contingency plan to local emergency response agencies. At the time of the March 16, 2023, inspection, Respondent had not developed the required quick reference guide or submitted it to local emergency response agencies.

Failure to submit a quick reference guide to local emergency response agencies is a violation of DRGHW Section 262.262(b).

On March 30, 2023, Respondent submitted documentation to the Department demonstrating correction of this violation to the Department's satisfaction.

10. DRGHW Section 262.262(a) states:

“(a) The large quantity generator must submit a copy of the contingency plan and all revisions to all local emergency responders (i.e., police departments, fire departments, hospitals, and State and local emergency response teams that may be called upon to provide emergency services). This document may also be submitted to the Local Emergency Planning Committee, as appropriate. Documentation of written submission and receipt must be maintained at the facility for three (3) years from the requirement last being applicable.”

On March 16, 2023, Respondent was unable to demonstrate that its Hazardous Materials and Waste Plan, which functioned as the Facility's contingency plan, was sent to local emergency response agencies.

Failure to submit a contingency plan to local emergency response agencies is a violation of DRGHW Section 262.262(a).

On March 30, 2023, Respondent submitted documentation to the Department demonstrating correction of this violation to the Department's satisfaction.

11. DRGHW Section 262.17(a)(1)(vi) states:

“(vi) Inspections. At least weekly, the large quantity generator must inspect central accumulation areas. The large quantity generator must look for leaking containers and for deterioration of containers caused by corrosion or other factors. See paragraph (a)(1)(ii) of this section for remedial action required if deterioration or leaks are detected. A written record of the inspections and remedial actions taken, if necessary, must be maintained onsite for a minimum of 3 years.”

On March 16, 2023, Department representatives reviewed weekly inspection records for the Facility's Garage/Chemical Shed for the previous three (3) years and found the following weekly inspection records missing:

1. March 16, 2020 to March 31, 2022 (106 weeks);
2. April 1, 2022 to April 11, 2022 (1 week);
3. August 4, 2022 to August 23, 2022 (2 weeks);
4. August 23, 2022 to September 6, 2022 (1 week);
5. October 13, 2022 to November 4, 2022 (2 weeks);
6. December 8, 2022 to January 20, 2023 (5 weeks);
7. January 27, 2023 to February 13, 2023 (2 weeks); and
8. February 13, 2023 to March 16, 2023 (3 weeks).

Upon further inquiry, Department Representatives learned that Respondent had not only failed to maintain inspection records, but had failed to conduct weekly inspections. Failure to conduct and maintain records of weekly inspections conducted is a violation of DRGHW Section 262.17(a)(1)(vi).

On March 20, 2023, Respondent submitted documentation to the Department demonstrating correction of this violation to the Department's satisfaction.

CONCLUSIONS

Based on the foregoing, the Department has concluded that Respondent has violated the above-cited statutory and regulatory provisions.

ASSESSMENT OF PENALTY

Pursuant to 7 *Del. C.* § 6005(b)(3), the Secretary may impose an administrative penalty of not more than \$10,000.00 for each day of violation detailed in this Secretary's Order. This Secretary's Order is written notice to Respondent, that, based upon its findings, the Department is assessing Respondent an administrative penalty for the violations identified in this Secretary's Order. In assessing the administrative penalty, 7 *Del. C.* § 6005(b)(3) instructs the Secretary to consider the following factors: (1) the nature, circumstances, extent, and gravity of the violation, or violations; (2) the ability of the violator to pay; (3) any prior history of such violations; (4) the degree of culpability; (5) the economic benefit or savings (if any) resulting from each violation; and (6) such other matters as justice may require. A brief discussion of these factors is set forth below.

1. The Nature, Circumstances, Extent, and Gravity of the Violation, or Violations:

The nature, circumstances, extent, and gravity of the violations are significant. This Secretary's Order identifies and describes 11 separate regulatory violations. Failing to ensure compliance with the regulatory requirements, including operating a hazardous waste storage facility without a permit and failing to make accurate hazardous waste determinations, are significant deviations from the statutory and regulatory requirements cited herein.

2. Respondents' Ability to Pay:

The record contains no information that Respondent lacks the ability to pay the administrative penalty assessed.

3. Prior History of Violations:

While Respondent had similar violations in 2018, this was not a factor in the administrative penalty assessment.

4. Degree of Culpability:

The degree of culpability is significant. Had Respondent employed reasonable oversight measures as DRGHW require, these violations would not have occurred.

5. Economic Benefit or Savings Resulting from the Violation(s):

With respect to the economic benefit, the record contains no information that Respondent incurred any meaningful economic benefit from these violations, and thus this was not a factor in the administrative penalty assessment.

6. Such Other Matters as Justice May Require:

Lastly, considering such other matters as justice may require, the Secretary has determined that the penalty assessed is proportional to the violations cited herein and has been calculated to deter Respondent, and those similarly situated, from engaging in future violations.

Pursuant to 7 *Del. C.* § 6005(b)(3), this is written notice to Respondent that on the basis of the above findings and factors, an administrative penalty of \$10,000.00 is assessed for the violations identified in this Secretary's Order.

1. Respondent shall submit one check to the Department in the amount of \$10,000.00 to pay the administrative penalty within 30 days from the receipt of this Secretary's Order. The check shall be made payable to the "State of Delaware" and shall be directed to: Leslie Reese, 89 Kings Highway SW, Dover, DE 19901.

PUBLIC HEARING AND APPEAL RIGHTS

This Secretary's Order affects Respondent's legal rights and is effective and final upon receipt by Respondent. Pursuant to Section 6008 of Title 7 of the Delaware Code, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board within **20 days** of the receipt of the Secretary's Order. In the alternative, Respondent may, pursuant to 7 *Del. C.* § 6005(b)(3), request a public hearing on the Secretary's Order within **30 days** of receipt of the Secretary's Order. A public hearing pursuant to 7 *Del. C.* § 6005(b)(3) would be conducted pursuant to 7 *Del. C.* § 6006, and the Secretary's order following the hearing would be subject to appeal, pursuant to 7 *Del. C.* § 6008, by any person substantially affected.

Respondent is further advised that the above assessed administrative penalty shall be due and owing within 30 days of Respondent's receipt of this Secretary's Order. In the event of nonpayment of the administrative penalty assessed above, and after Respondent has exhausted all legal appeals, if any, a civil action may be brought by the Secretary in Superior Court for collection of the administrative penalty, including interest, attorneys' fees and costs, and the validity, amount and appropriateness of such administrative penalty and/or costs shall **not** be subject to review pursuant to 7 *Del. C.* §§ 6005(b)(3) and (c).

To request a public hearing pursuant to 7 *Del. C.* § 6005(b)(3), please submit your request, in writing, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

To submit an appeal to the Environmental Appeals Board pursuant to 7 *Del. C.* § 6008, you must file your written statement of appeal and submit a check, made payable to: "Environmental Appeals Board," for the \$50.00 filing fee, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
Attn: Assistant to the Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

For additional information on filing an appeal with the Environmental Appeals Board and what information you must include in your written statement of appeal, please refer to the Environmental Appeals Board Regulations, codified at 7 DE Admin. Code § 105.

The Department, to the extent necessary, reserves the right to take additional enforcement actions regarding these and other violations by Respondent, including but not limited to one or more of the following: an action under 7 *Del. C.* § 6005(b)(1) seeking penalties for past violations, an action under 7 *Del. C.* § 6005(b)(2) seeking penalties for continuing violations, an action in the Court of Chancery pursuant to 7 *Del. C.* § 6005(b)(2) seeking a temporary restraining order or an injunction, and the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 *Del. C.* §§ 6005(b)(3) & (c)(1). Nothing in this document shall be deemed to estop, or in any way preclude any additional enforcement action for these or any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations.

SECRETARY'S ORDER FOR COST RECOVERY

Pursuant to 7 *Del. C.* § 6005(c), Respondent is liable for all expenses incurred by the Department in abating the violations detailed in this Secretary's Order. "Such expenses shall include, but not be limited to, the costs of investigation, legal fees and assistance, public hearings, materials, equipment, human resources, contractual assistance and appropriate salary and overtime pay for all state employees involved in the effort notwithstanding merit system laws, regulations or rules to the contrary." (7 *Del. C.* § 6005(c)(1)).

2. Respondent is liable for \$5,006.00 in costs, which costs the Department has incurred **to date** in abating the violations detailed in this Secretary's Order. The Department has attached to this Secretary's Order a detailed billing of expenses detailing these costs. Respondent shall remit a check payable to the State of Delaware in the amount of \$5,006.00 within thirty (30) days of receipt of this Secretary's Order, to Leslie Reese, 89 Kings Highway SW, Dover, DE 19901.

In the event that Respondent appeals this Secretary's Order pursuant to 7 *Del. C.* § 6008 or requests a public hearing pursuant to 7 *Del. C.* § 6005(b)(3), or in the event Respondent fails to comply with this Secretary's Order, the Department will rescind the detailed billing attached to this Secretary's Order. The Department will issue Respondent a new detailed billing and Cost Recovery Order following exhaustion of Respondent's appeal rights that will include all additional recoverable costs incurred by the Department. Respondent is further advised that Respondent may challenge the Department's final detailed billing in accordance with 7 *Del. C.* § 6005(c)(2).

PRE-PAYMENT

Respondent may prepay the administrative penalty of \$10,000.00 and the Department's costs in the amount of \$5,006.00 in the manner described in the attached "**Waiver of Statutory Right to A Hearing.**" By doing so, Respondent waives its right to a hearing and the opportunity to appeal or contest this Secretary's Order and the Department's Cost Recovery.

If you have any questions, please contact, or have your attorney contact Leslie Reese, at (302) 739-9000.

October 17, 2023

Date



For Shawn M. Garvin, Secretary

cc: Sawyer Traver, Deputy Attorney General
Timothy Ratsep, Division Director

WAIVER OF STATUTORY RIGHT TO A HEARING

Beebe Healthcare, Inc. hereby waives its right to a public hearing and its opportunity to appeal or contest this Secretary's Order, and agrees to the following:

3. **Beebe Healthcare, Inc.** will pay the administrative penalty in the amount of \$10,000.00 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Secretary's Order. The check shall be directed to Leslie Reese, 89 Kings Highway SW, Dover, DE 19901.
4. **Beebe Healthcare, Inc.** will pay the Department's Costs in the amount of \$5,006.00 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Secretary's Order. The check shall be directed to Leslie Reese, 89 Kings Highway SW, Dover, DE 19901.

Beebe Healthcare, Inc.

Date: _____

By: _____
(Signature)

Title: _____

Name: _____
(Print)