



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Medical Waste/Hazardous Waste Enforcement: California Attorney General and California Hospital Organization/Health Plan Enter into Settlement

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The California Attorney General and six State District Attorneys entered into a Settlement (styled “*Stipulation for Entry of Final Judgment and Permanent Injunction*”) on September 8th with Kaiser Foundation Health Plan, Inc., and Kaiser Foundation Hospitals (collectively, “Kaiser”) addressing alleged violations of regulations involving both hazardous waste and medical waste management requirements.

The State District Attorneys entering into the Settlement included:

- Ronald J. Freitas, District Attorney of San Joaquin County;
- Pamela Y. Price, District Attorney of Alameda County;
- Jason Anderson, District Attorney of San Bernardino County;
- Brooke Jenkins, District Attorney of San Francisco;
- Stephen M. Wagstaffe, District Attorney of San Mateo; and
- Jeff Reisig, District Attorney of Yolo County

Concurrently with the filing of the Settlement a Complaint was filed in the Superior Court of the State of California, County of San Joaquin, alleging Kaiser committed violations of:

. . . chapter 6.5 of the Health and Safety Code and title 22 of the California Code of Regulations promulgated under that chapter, Health and Safety Code, division 104, part 14, chapter 10, starting at Health and Safety Code section 117600, the Confidentiality of Medical Information Act (codified at California Civil Code section 56 et seq.), Civil Code section 1798.81, Health and Safety Code sections 1280.18 and 1280.15, the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104-191 (Aug. 21, 1996) 110 Stat. 1936), including the regulations promulgated under these chapters and sections, and Business and Professions Code section 17200 et seq.

The California Attorney General’s Office states that the Settlement was the result of undercover inspections conducted by the referenced District Attorneys’ Offices of dumpsters from 16 different Kaiser facilities. They are stated to have reviewed the contents of unsecured dumpsters destined for disposal for publicly accessible landfills.

Allegedly discovered were items such as:

- Hazardous and medical waste (aerosols, cleansers, sanitizers, batteries, electronic wastes, syringes, metal tubing with bodily fluids, and pharmaceuticals)
- 10,000 paper records containing the information of over 7,700 patients

In response to the investigation, Kaiser is stated to have immediately hired a third-party consultant and conducted over 1,100 trash audits at its facilities to improve compliance. Further, Kaiser is stated to have modified its operating procedures to improve its handling, storage, and disposal of waste.

The Settlement requires that Kaiser:

- Pay a \$47,250,000 penalty that includes:
- An additional \$1.75 million in civil penalties if within five years of the entry of the final judgment Kaiser has not spent \$30.5 million at its California facilities to implement enhanced environmental compliance measures to ensure compliance with relevant provisions of the law that are alleged to have been violated
- Retain an independent third-party auditor that will:
- Perform no less than 520 trash compactor audits at Kaiser's California facilities to help ensure that regulated wastes are not unlawfully disposed of
- Conduct at least 40 programmatic field audits each year for a period of five years
- Evaluate Kaiser's compliance with policies and procedures designed to ensure compliance with applicable laws related to:
 - Hazardous waste
 - Medical waste
 - Protect health information

A copy of the Settlement Agreement can be downloaded [here](#).