Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO Bon Secours Mercy Health d/b/a Bon Secours, Saint Francis Medical Center, LLC. EPA ID No. VAR000539643

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Department of Environmental Quality and Bon Secours Mercy Health d/b/a Bon Secours, Saint Francis Medical Center, LLC for the purpose of resolving violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the terms used in this Consent Order have the meanings assigned to them in Va. Code § 10.1-1400 *et seq.*, 9 VAC 20-70-10 *et seq.*, and 9 VAC 20-81-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Bon Secours Mercy Health d/b/a Bon Secours, Saint Francis Medical Center, LLC. ("Saint Francis") is a business entity authorized to do business in Virginia and references to Saint Francis include its affiliates, partners, and subsidiaries. Saint Francis is a "person" within the meaning of Va. Code § 62.1-44.3.

2. Saint Francis. owns and operates Saint Francis Medical Center in Chesterfield County, Virginia (Facility). Saint Francis Medical Center is a 130-bed medical/surgical health care facility, offering general and acute care services operating as a medical, healthcare facility since opening in September 2005. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations

3. On August 9, 2022, Virginia DEQ received a RCRA Subtitle C Site Identification notification via the RCRA Information (RCRA info) database system. The notification described regulated waste activity at Saint Francis Medical Center, and also indicated the Facility was operating as a Large Quantity Generator (LQG) of hazardous waste. The Notice indicated the Facility was operating as a Healthcare Facility under the provisions of 40 CFR 266 Subpart P. DEQ issued EPA ID No. VAR000539643 for Saint Francis Medical Center.

4. Saint Francis generates solid wastes, which are also characteristic and listed hazardous wastes. This includes, but is not limited, to hazardous waste pharmaceuticals and laboratory solvents. This hazardous waste is accumulated in containers at the Facility after its generation. Characteristically hazardous and listed wastes include pharmaceuticals (based on profiles, manifests and LDRs) - F003, D001, D002, D005, D007, D009, D010, D011, D013, D018, D022, D023, D024, D026, U010, U058, U59, U122, U129, U150, U188, U205, U206, P001, P008, P012, P042, P075, P188.

5. On September 5, 2023, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and Regulations. Based on the inspection and follow-up information, Department staff made the following observations:

6. Observation 1: Failure to make a hazardous waste determination for three waste streams, including: 1) pharmaceutical barium sulfate containing contrast waste disposed in blue non-hazardous waste bins; 2) hazardous waste DEA-controlled substances in sequestration devices mixed with Facility trash; and 3) spent filter media from lamp crushing placed in same drums as universal waste lamps.

   Legal Requirements: Title 40 of the Code of Federal (40 CFR) §262.11(a), as referenced by Title 9 of the Virginia Administrative Code (9VAC)20-60-262, states, "A person who generates a solid waste, as defined in 40 CFR 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 applicable RCRA regulations. A hazardous waste determination is made using the following steps: (a) The hazardous waste determination for each solid waste must be made at the point of waste generation, before any dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the RCRA classification of the waste may change..."

7. Observation 2: Failure to determine if the three waste streams, pharmaceutical barium sulfate, hazardous waste DEA-controlled substances, and spent lamp crushing filters, should be treated before land disposal.

   > Legal Requirements: 40 CFR §268.7(a)(1), as referenced by 9VAC20-60-268 states, "A generator of hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in § 268.40, 268.45, or § 268.49. This determination can be made concurrently with the hazardous waste determination required in § 262.11 of this chapter, in either of two ways: testing the waste or using knowledge of the waste..."

8. Observation 3: The Facility was operating as a large quantity generator (LQG) prior to notifying as an LQG on August 9, 2022. The Facility did not notify as a hazardous waste generator until August 9, 2022.

   > Legal Requirements: 40 CFR §262.18(a), as referenced by 9VAC20-60-262, states, "A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator."

9. Observation 4: Failure to determine the Facility's hazardous waste generator status due to co-mingling acute and non-acute hazardous waste pharmaceuticals (HWPs).

   > Legal Requirements: 40 CFR §262.13(a), as referenced by 9VAC20-60-262, states, "Generators of either acute hazardous waste or non-acute hazardous waste. A generator who either generates acute hazardous waste or non-acute hazardous waste in a calendar month shall determine its generator category for that month by doing the following: 1) Counting the total amount of hazardous waste generated in the calendar month; 2) Subtracting from the total any amounts of waste exempt from counting as described in paragraphs (c) and (d) of this section; and 3) Determining the resulting generator category for the hazardous waste generated using Table 1 of this section.

10. Observation 5: Failure to notify DEQ prior to August 9, 2022 that the Facility was operating as a Large Quantity Generator.

    > Legal Requirements: 9VAC20-60-315.D states, "Anyone who becomes a large quantity generator shall notify the department in writing immediately of this change in status and document the change in the operating record."

11. Observation 6: As an observed LQG, the Facility did not provide notification to DEQ that it was operating as a Healthcare Facility under 40 CFR 266 Subpart P on the effective date of August 23, 2019.

Legal Requirements: 40 CFR §266.502(a)(1) as referenced by 9VAC20-60-266, states "(1) Notification. A healthcare facility must notify the EPA Regional Administrator, using the Site Identification Form (EPA Form 8700-12), that it is a healthcare facility operating under this subpart. A healthcare facility is not required to fill out Box 10.B. (Waste Codes for Federally Regulated Hazardous Waste) of the Site Identification Form with respect to its hazardous waste pharmaceuticals. A healthcare facility must submit a separate notification (Site Identification Form) for each site or EPA identification number.

12. Observation 7: Prior to August 9, 2022, the Facility stored hazardous waste solvent for a period of greater than 90 days in the hazardous waste accumulation area without a permit.

Legal Requirements: 40 CFR 262.17(a) as referenced by 9VAC20-60-262 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 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, 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. The following accumulation conditions also apply:..."

13. Observation 8: Failure to provide a Biennial Report in 2021 as an observed LQG in calendar year 2020.

Legal Requirements: 40 CFR 262.41(a) as referenced by 9VAC20-60-262 states, "A generator who is a large quantity generator for at least one month of an odd-numbered year (reporting year) who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must complete and submit EPA Form 8700–13 A/B to the Regional Administrator by March 1 of the following even-numbered year and must cover generator activities during the previous year."

14. Observation 9: Failure to include EPA waste code information (P-listed waste codes) on associated LDR notifications from October 2020 to August 5, 2022.

Legal Requirements: 40 CFR 268.7(a)(2) as referenced by 9VAC20-60-268 states, "If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file. The notice must include the information in column "268.7(a)(2)" of the Generator Paperwork Requirements Table in paragraph

(a)(4) of this section. (Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the EPA Hazardous Waste Numbers and Manifest Number of the first shipment and must state "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination.") No further notification is necessary until such time that the waste or facility change, in which case a new notification must be sent, and a copy placed in the generator's file."

15. Observation 10: Failure to comply with LQG requirement to conduct weekly inspections of the 90-day hazardous waste accumulation area after March 2021. The Facility stated weekly inspections were not conducted for the period of March 2021 to August 2022.

    Legal Requirements: 40 CFR 262.17(a)(1)(v) as referenced by 9VAC20-60-262 states, "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.

16. Observation 11: Failure to comply with LQG requirement to provide DEQ location of the 90-day hazardous waste accumulation areas.

    Legal Requirements: 9VAC20-60-262 B.4 states, "For accumulation areas established after March 1, 1988, a large quantity generator shall notify the department and document in the operating record that he intends to accumulate hazardous waste in accordance with 40 CFR 262.17 prior to or immediately upon the establishment of each 90-day accumulation area. In the case of a new large quantity generator who creates such accumulation areas after March 1, 1988, he shall notify the department at the time the generator files the Notification of Hazardous Waste Activity EPA Form 8700-12 that he intends to accumulate hazardous waste in accordance with 40 CFR 262.18. This notification shall specify the exact location of the 90-day accumulation area at the site."

17. Observation 12: Failure to submit annual LQG fee for calendar years 2020 and 2021.

    Legal Requirements: 9VAC20-60-262.B.8 states, "in addition to the requirements of this section, large quantity generators are required to pay an annual fee. The fee schedule and fee regulations are contained in Part XII (9VAC20-60-1260 through 9VAC20-60-1286) of this chapter."

    Legal Requirements: 9VAC20-60-1283(B) states, "Each large quantity generator of hazardous waste shall be assessed an annual fee as shown in 9VAC20-60-1285 F to be paid in accordance with 9VAC20-60-1284."

Legal Requirements: 9VAC20-60-1284(A) states, "Due Date. The operator of the treatment, storage, or disposal facility and each large quantity generator shall pay the correct fees to the Department of Environmental Quality..."

Legal Requirements: 9VAC20-60-1285 sets LQG annual fees at $1,000.

18. Observation 13: Failure to properly dispose of HEPA filters from the lamp crushing unit as an observed very small quantity generator.

Legal Requirements: 40 CFR §262.14(a)(5), as referenced by 9VAC20-60-262, states, "(a)Provided that the very small quantity generator meets all the conditions for exemption listed in this section, hazardous waste generated by the very small quantity generator is not subject to the requirements of parts 124, 262 (except §§ 262.10 through 262.14) through 268, and 270 of this chapter, and the notification requirements of section 3010 of RCRA and the very small quantity generator may accumulate hazardous waste on site without complying with such requirements. The conditions for exemption are as follows:

(5) A very small quantity generator that accumulates hazardous waste in amounts less than or equal to the limits in paragraphs (a)(3) and (4) of this section must either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:

i. Permitted under part 270 of this chapter;
ii. In interim status under parts 265 and 270 of this chapter;
iii. Authorized to manage hazardous waste by a state with a hazardous waste management program approved under part 271 of this chapter;
iv. Permitted, licensed, or registered by a state to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to part 258 of this chapter;
v. Permitted, licensed, or registered by a state to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit, is subject to the requirements in §§ 257.5 through 257.30 of this chapter;"
vi. A facility which:
    (a) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or
    (b) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation;
vii. For universal waste managed under part 273 of this chapter, a universal waste handler or destination facility subject to the requirements of part 273 of this chapter;

viii. A large quantity generator under the control of the same person as the very small quantity generator, provided the following conditions are met:..."

19. Observation 14: Failure to provide notification to DEQ of lamp-crushing activities.

Legal Requirements: Title 9 of the Virginia Administrative Code 9VAC20-60-1505B.7(h) states, "The generator or facility under the control of the generator shall make written notification to the department of the physical location of the crushing operation no later than January 31, 2017, for all existing operations or 30 calendar days prior to beginning operation of a new crushing operation. The notification shall include the name of the individual or company that owns the operation; the EPA ID number if one has been issued for the facility; the location of the crushing operation; and the names, addresses, and telephone numbers of the operator and principal contact person or persons. A written notice of changes in the notification data shall be sent to the department within 15 calendar days of the change. The notification shall include the certification required under subdivision 4 (b) of this subsection if applicable."

20. Observation 15: Failure to provide written procedures documenting how to safely operate the lamp crushing unit, how to handle and store the mercury-containing lamps (waste management practices), maintenance schedules of the unit, and personal protective equipment usage.

Legal Requirements: 9VAC20-60-1505.B.7(i) states, "A written procedure specifying how to safely crush, handle, and store mercury-containing lamps and how to minimize the release of mercury, including during drum changes and malfunctions, shall be developed, implemented, and documented. This procedure shall include (i) the type of equipment to be used to crush mercury-containing lamps safely, (ii) instructions for proper equipment operation and a schedule for maintenance of the unit in accordance with written procedures developed by the manufacturer of the equipment, (iii) proper waste management practices, and (iv) the use of personal protective equipment to include at a minimum safety glasses or full face shield and cut-proof gloves. The maintenance schedule shall identify all maintenance operations and the frequency with which they must be performed, including replacement of particle filters and the activated carbon media as recommended by the manufacturer of the crushing unit."

21. Observation 16: Failure to keep maintenance activity records for the lamp crushing unit at the Facility.

Legal Requirements: 9VAC20-60-1505.B.7(j) states, "Maintenance activities shall be documented, and records of maintenance shall be

maintained and available for inspection per subdivision 8 of this subsection."

22. Observation 17: Failure to provide a training plan and training documentation for operation of the lamp crushing unit.

    Legal Requirements: 9VAC20-60-1505.B.7(k) states, "Each unit operator shall receive initial and annual training in crushing procedures, waste handling, safety, use of personal protective equipment, and emergency procedures, including proper procedures for cleaning up broken mercury-containing lamps. All training shall be documented, and records of training shall be maintained and available for inspection per subdivision 8 of this subsection."

23. Observation 18: Failure to place lamp crushing unit at Facility in an area meeting secondary filtration requirements.

    Legal Requirements: 9VAC20-60-1505.B.7(b) states, "crushing operations shall occur in a space with its ambient air isolated from other work areas where persons who are not involved in the crushing operation may work. The ambient air from rooms containing crushing operations shall be discharged after filtration directly to an area outside the building where persons are unlikely to be directly exposed. If a situation exists at a particular facility in which the facility determines that discharge of ambient air from a room containing a crushing operation to the outside is technically or financially impracticable, the department may approve an alternated design that allows the discharge of ambient air from a room containing a crushing operation to another internal building space or centralized air circulation system if:

    1) The ambient air is discharged to the internal building space or centralized air circulation system through filtration system capable of capturing both particulate and vapor phase mercury.
    2) The filtration system is maintained as recommended by the manufacturer to ensure that it operates at its design mercury removal efficiency.
    3) Maintenance of the filtration system shall be documented, and records of maintenance shall be kept on site."

24. Observation 19: Failure to separate lamp crusher filter media from the crushed mercury-containing lamps.

    Legal Requirements: 9VAC20-60-1505.B.7(l) states, "Residues, filter media, used equipment, other mercury-containing equipment, and other solid waste shall not be placed in the container with the crushed mercury-containing lamps. Any waste materials generated as part of the crushing operation that are determined to be hazardous waste.

shall be managed under this chapter, as hazardous waste or if not hazardous waste, as a solid waste under the Solid Waste Management Regulations, 9VAC20-81."

25. Observation 20: Failure to close bulb crusher intake tube. The intake chute plug was not secured in the intake opening and the tethered plug was hanging down.

    Legal Requirements: 9VAC20-60-1505.B.7(a) states, "Mercury-containing lamps shall be crushed in a mechanical unit specifically designed to crush mercury-containing lamps. This unit shall be hermetically sealed, except for air intakes, and under negative pressure. Air intake points must be closed when the unit is not operating."

26. Observation 21: Failure to properly label universal waste containers. DEQ observed two drums of crushed waste lamps without proper labeling.

    Legal Requirements: 9VAC20-60-1505.B.7(g) states, "Drums or containers used for storage of crushed mercury-containing lamps shall be properly sealed and labeled. The label shall bear the words 'Universal Waste-Lamps,' 'Waste Lamps,' or 'Used Lamps.'"

    Legal Requirements: 40 CFR §273.14(e), as referenced by 9 VAC20-60-273 states, "Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste— Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

27. Observation 22: Failure to maintain documentation of the time and quantity of lamps crushed per month to support Facility statements that ambient air monitoring was not required upon initial usage and on an annual basis.

    Legal Requirements: 9VAC20-60-1505.B.7(n)(4) states, "The facility shall document the amount of time spent crushing lamps and this information shall be maintained in the facility record and available for inspection per subdivision 8 of this subsection."

28. Observation 23: Failure to label the accumulation start date or maintain an inventory tracking system for two drums of universal waste crushed lamps.

    Legal Requirements: 40 CFR §273.15(c), as referenced by 9VAC20-60-273 states, "(c) A small quantity handler of universal waste who accumulates universal waste must be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:

1) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
2) Marking or labeling each individual item of universal waste (e.g., each battery or thermostat) with the date it became a waste or was received;
3) Maintaining an inventory system on-site that identifies the date each universal waste became a waste or was received;
4) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
5) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
6) Any other method which clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received."

29. Observation 24: Failure to train Facility maintenance staff of universal waste handling requirements or emergency procedures for release of universal wastes.

    Legal Requirements: 40 CFR 273.16 as referenced by 9 VAC20-60-273, states, "A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility."

30. Observation 25: Failure to close containers of non-creditable hazardous waste pharmaceuticals. DEQ staff observed open hazardous waste pharmaceutical containers (black bins) in the following areas: 1) Third Floor Inpatient Pharmacy (one black bin); 2) Second Floor Endoscopy, Suite 3 (one black bin); 3) Second Floor Main PACU (one black bin).

    Legal Requirements: 40 CFR §266.502(d)(3), as referenced by Title 9 of the Virginia Administrative Code (9VAC)20-60-262, states "A healthcare facility must keep containers of non-creditable hazardous waste pharmaceuticals closed and secured in a manner that prevents unauthorized access to its contents."

31. Observation 26: Failure to label containers of non-creditable hazardous waste pharmaceuticals. DEQ observed one hazardous waste pharmaceutical collection container located in the Third Floor Step Down PCC dispensing area was not correctly labeled. DEQ observed labeling read "RCRA Hazardous Waste."

Legal Requirements: 40 CFR §266.502(e), as referenced by 9VAC20-60-266 states, "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."

32. Observation 27: Failure to separate non-creditable hazardous waste pharmaceuticals that contain RCRA metals. Based on the provided waste disposal data, the Facility may generate HWPs that are hazardous for: Selenium sulfide (U205), D005 Barium (D005), Chromium (D007), Mercury (D009), Selenium (D010), and Silver (D011).

Legal Requirements: 40 CFR §266.502(d)(4), as referenced by 9VAC20-60-266 states, "A healthcare facility may accumulate non-creditable hazardous waste pharmaceuticals and non-hazardous non-creditable waste pharmaceuticals in the same container, except that non-creditable hazardous waste pharmaceuticals prohibited from being combusted because of the dilution prohibition of § 268.3(c) must be accumulated in separate containers and labeled with all applicable hazardous waste numbers (i.e., hazardous waste codes)."

33. Observation 28: Failure to utilize the "PHARMS" or "PHRMS" waste code designation for hazardous waste medicine and medicinal inhalers. DEQ observed the Facility did not utilize the "PHARMS" waste code section of the hazardous waste manifest after August 9, 2022 (when the Facility provided notification as operating as a Healthcare Facility under the requirements of 40 CFR Subpart P). The following hazardous waste manifests are presented below:

Manifest Tracking Number	Transport Date
016264040FLE	11/16/2022
018071134FLE	12/9/2022
016094638FLE	1/6/2023
018071700FLE	2/3/2023
017559801FLE	3/3/2023
017558665FLE	4/7/2023
017559232FLE	5/1/2023
017564310FLE	6/1/2023
017565245FLE	7/7/2023
016092183FLE	8/4/2023

Legal Requirements: 40 CFR §266.508(a)(2)(ii) as referenced by 9VAC20-60-266 states, "(a) Shipping non-creditable hazardous waste pharmaceuticals or evaluated hazardous waste pharmaceuticals. A healthcare facility must ship non-creditable hazardous waste

pharmaceuticals and a reverse distributor must ship evaluated hazardous waste pharmaceuticals off-site to a designated facility (such as a permitted or interim status treatment, storage, or disposal facility) in compliance with:
(2) The manifest requirements of 40 CFR part 262 subpart B, except that:
(ii) A healthcare facility shipping non-creditable hazardous waste pharmaceuticals must write the word "PHARMS" in Item 13 of EPA Form 8700-22."

34. Observation 29: Failure to include the Facility's issued EPA ID number on the same manifest shipments observed in Observation #28 above. The Facility is subject to the manifests requirements of 40 CFR 262 Subpart B and required to complete the manifests with the required information.

    Legal Requirements: 40 CFR §262.20(a)(1), as referenced by 9VAC20-60-262 states, "A generator that transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, or disposal facility that offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and, if necessary, EPA Form 8700-22A, according to the instructions included in the appendix to this part."

35. Observation 30: Failure to properly dispose of hazardous waste DEA-controlled substances, including phenobarbital (liquid in vials; D001) and injectable valium (D001) if generated.

    Legal Requirements: 40 CFR §266.506(a)(1), as referenced by 9VAC20-60-268 states, "(a) Conditional exemptions. Provided the conditions of paragraph (b) of this section are met, the following are exempt from 40 CFR parts 262 through 273:
    (1) Hazardous waste pharmaceuticals that are also listed on a schedule of controlled substances by the Drug Enforcement Administration in 21 CFR part 1308, and..."

    Legal Requirements: 40 CFR §266.506(b)(3), as referenced by 9VAC20-60-268 states, "Destroyed by a method that Drug Enforcement Administration has publicly deemed in writing to meet their non-retrievable standard of destruction or combusted at one of the following:
    1) A permitted large municipal waste combustor, subject to 40 CFR part 62 subpart FFF or applicable state plan for existing large municipal waste combustors, or 40 CFR part 60 subparts Eb for new large municipal waste combustors; or
    2) A permitted small municipal waste combustor, subject to 40 CFR part 62 subpart JJJ or applicable state plan for existing small municipal waste combustors, or 40 CFR part 60 subparts AAAA for new small municipal waste combustors; or

3) A permitted hospital, medical and infectious waste incinerator, subject to 40 CFR part 62 subpart HHH or applicable state plan for existing hospital, medical and infectious waste incinerators, or 40 CFR part 60 subpart Ec for new hospital, medical and infectious waste incinerators.
4) A permitted commercial and industrial solid waste incinerator, subject to 40 CFR part 62 subpart III or applicable state plan for existing commercial and industrial solid waste incinerators, or 40 CFR part 60 subpart CCCC for new commercial and industrial solid waste incinerators.
5) A permitted hazardous waste combustor subject to 40 CFR part 63 subpart EEE.

36. On November 20, 2023, based on the inspection and follow-up information, the Department issued Notice of Violation No. 2023-11-PRO-602 to the Saint Francis Medical Center for the violations described in paragraph above.

37. On December 19, 2023, Department staff met with representatives of Saint Francis Medical Center to discuss the violations.

38. Based on the results of the September 5 2023 inspection and the December 19, 2023 meeting, the Department concludes that Saint Francis has violated 40 CFR § 26.2.11(a), 40 CFR §268.7(a)(1), 40 CFR §262.18(a), 40 CFR §262.13(a), 9VAC20-60-315.D, 40 CFR §266.502(a)(1), 40 CFR 262.17(a), 40 CFR 262.41(a), 40 CFR 268.7(a)(2), 40 CFR 262.17(a)(1)(v), 9VAC20-60-262 B.4, 9VAC20-60-262.B.8, 9VAC20-60-1283(B), 9VAC20-60-1284(A), 9VAC20-60-1285, 40 CFR §262.14(a)(5), 9VAC20-60-262, 9VAC20-60-1505B.7(h), 9VAC20-60-1505.B.7(i), 9VAC20-60-1505.B.7(j), 9VAC20-60-1505.B.7(k), 9VAC20-60-1505.B.7(b), 9VAC20-60-1505.B.7(l), 9VAC20-60-1505.B.7(a), 9VAC20-60-1505.B.7(g), 40 CFR §273.14(e), 9VAC20-60-1505.B.7(n)(4), 40 CFR §273.15(c), 40 CFR 273.16, 40 CFR §266.502(d)(3), 40 CFR §266.502(e), 40 CFR §266.502(d)(4), 40 CFR §266.508(a)(2)(ii), 40 CFR §262.20(a)(1), 40 CFR §266.506(a)(1), 40 CFR §266.506(b)(3), as described in paragraph C(5), above.

39. Saint Francis has submitted documentation that verifies Observations 1, 2, 3, 4, 5, 6, 7, 8 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 described in paragraph C(5), above, are corrected. Observations 9 and 12 are pending corrective action.

40. In order for Saint Francis to complete its return to compliance, DEQ staff and representatives of Saint Francis have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Department orders Responsible Party, and Responsible Party agrees to:

1. Perform the actions described in Appendix A of this Order; and

2. Pay a civil charge of $33,281.50 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Saint Francis shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Saint Francis shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Department may modify, rewrite, or amend this Order with the consent of Saint Francis for good cause shown by Saint Francis, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. 2023-11-PRO-602 dated November 20, 2023. This Order shall not preclude the Department or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Saint Francis admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.

4. Saint Francis consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Saint Francis declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial

review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Department to modify, rewrite, amend, or enforce this Order.

6. Failure by Saint Francis to comply with any of the terms of this Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. Saint Francis shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Saint Francis shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Saint Francis shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

   a. the reasons for the delay or noncompliance;

   b. the projected duration of any such delay or noncompliance;

   c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

   d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

   Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and Saint Francis. Nevertheless, Saint Francis agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

a. The Director or his designee terminates the Order after Saint Francis has completed all of the requirements of the Order;

b. Saint Francis petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

c. the Director or the Department terminates the Order in his or its sole discretion upon 30 days' written notice to Saint Francis.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Saint Francis from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Saint Francis and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of Saint Francis certifies that he or she is a responsible official or officer authorized to enter into the terms and conditions of this Order and to execute and legally bind Saint Francis to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Saint Francis.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Saint Francis voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2024.

_____
Jerome Brooks, Regional Director
Department of Environmental Quality

----------(Remainder of Page Intentionally Blank)----------

Bon Secours, Saint Francis, LLC. voluntarily agrees to the issuance of this Order.

Date: April 24, 2024 By: [signature], President
(Person) (Title)
Bon Secours, Saint Francis, LLC.

Commonwealth of Virginia
City/County of CHESTERFIELD

The foregoing document was signed and acknowledged before me this 24th day of April, 2024, by JOSEPH D. WILKINS who is PRESIDENT of Bon Secours, Saint Francis, LLC., on behalf of the corporation.

[signature]
Notary Public

7522661
Registration No.

My commission expires: 06/30/2025

Notary seal:

APPENDIX A
SCHEDULE OF COMPLIANCE

Bon Secours, Saint Francis, LLC. shall:

1. Within 120 days of the effective date of this Order, Saint Francis shall submit documentation to DEQ that Saint Francis has a hazardous waste program in place and is properly characterizing, handling, managing, and disposing the hazardous and universal waste generated as a Small Quantity Generator Facility for non-pharmaceutical waste. Said documentation shall include but not be limited to:

a. Identify qualified staff by name and title responsible for Environment, Health, and Safety ("EHS") matters associated with all Saint Francis operations at the Midlothian, Virginia facility. Saint Francis shall submit such Position Description(s) to DEQ for review and coordination upon completion. Such staff members shall have meaningfully sufficient corporate support, authority, and position in the Saint Francis corporate structure to independently identify and resolve facility compliance risks and instruct other Saint Francis staff on compliance measures. Position in corporate structure, specific program responsibilities and percentage of allotted work time to ESH activities for each staff member shall be described in individual Position Description(s). Such Position Description(s) shall include, but not be limited to, requirements to maintain compliance with EPA ID No. VAR000539643 and any subsequent issuance.

b. Documentation that all management staff that are involved with the generation and management of hazardous waste at Saint Francis have received hazardous waste training, including RCRA waste generator training based on current generator status and pharmaceutical Subpart P training, by submitting training slides and training certificates. The training shall include, but not be limited to, such topics as spill response, good housekeeping, material management practices, process management, control measure operation, and maintenance. Such training shall be conducted pursuant to a clear understanding of the management of hazardous waste.

c. Submit four months of documentation tracking monthly hazardous waste generation of non-pharmaceutical hazardous waste based on updated tracking form submitted February 12, 2024.

d. Submit additional P-listed EPA waste codes in the land disposal restriction notifications from October 2020 to August 5, 2022, and submit to the receiving disposal Facility to show the corrections. The Facility will need to provide documentation (corrected LDR copies) once the corrections are submitted to the TSDF.

e. Submit LQG fee for calendar years 2020 and 2021.

2. **Contact**

Unless otherwise specified in this Order, Saint Francis shall submit all requirements of Appendix A of this Order to:

Cara Witte
Enforcement Specialist
VA DEQ –Piedmont Regional Office
4949 Cox Road, Suite A
804-712-4192
cara.witte@deq.virginia.gov