

January 15, 1997
EN 97-005

OFFICE OF ENFORCEMENT
NOTIFICATION OF SIGNIFICANT ENFORCEMENT ACTION

Licensee: The Honolulu Medical Group (EA 95-006)
Honolulu, Hawaii
Docket No. 030-11006

Subject: NOTICE OF VIOLATION AND EXERCISE OF ENFORCEMENT DISCRETION

This is to inform the Commission that the staff intends to exercise enforcement discretion per Section VII.B.6 of the Enforcement Policy and not impose a civil penalty for a Severity Level II violation. A letter describing this action and forwarding the Notice of Violation will be issued on or about January 23, 1997. The violation is based on a finding of discrimination by a Department of Labor (DOL) District Director. Subsequent decisions by a DOL Administrative Law Judge and by the Secretary of Labor, which primarily address the remedy awarded to the claimant, also corroborate the finding of discrimination.

Normal application of the Enforcement Policy would result in assessment of a civil penalty with a base amount of \$4,000 for a Severity Level II violation. However, discretion is being proposed in this case because: (1) the licensee was willing to comply with the initial remedy in the DOL District Director's finding (however, the complainant appealed the remedy and was granted a hearing); (2) the licensee also attempted to settle the matter prior to the adjudicatory hearing; (3) this matter was ultimately resolved in a settlement agreement between the licensee and the complainant; and (4) there have been no other complainants of discrimination against the licensee since this matter arose in 1992.

It should be noted that the licensee has not been informed specifically of the enforcement action. The schedule of issuance is:

Mailing of Notice	January 23, 1997
Telephone Notification of Licensee	January 23, 1997

The State of Hawaii will be notified.

The licensee has thirty days from the date of the Notice in which to respond.

<u>Contacts:</u> J. DelMedico, OE, 415-2739	J. Lieberman, OE, 415-2741
OWFN _____	Regional Offices
Chairman Jackson EDO _____	RI _____ RIV _____
Comm. Rogers DEDR _____	RII _____ WCFO _____
Comm. Dicus DEDS _____	RIII _____
Comm. Diaz OE _____	
Comm. McGaffigan OGC _____	<u>MAIL</u>
SECY NRR _____	NUDOCS
OCA OI _____	PUBLIC
PA SP _____	
IP _____	

PRELIMINARY INFORMATION - NOT FOR PUBLIC DISCLOSURE UNTIL
VERIFICATION THAT LICENSEE HAS RECEIVED ACTION

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PDR I&E
EN-97-005 PDR

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