

**RECEIVED**  
CLERK'S OFFICE

OCT 24 2006

STATE OF ILLINOIS  
Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
PROVENA HOSPITALS, d/b/a PROVENA )  
UNITED SAMARITANS MEDICAL CENTER, )  
an Illinois not-for-profit corporation, and )  
RESURRECTION CATHOLIC CEMETERY )  
ASSOCIATION OF DANVILLE, ILLINOIS, )  
an Illinois not-for-profit corporation, )  
)  
Respondents. )

PCB NO. 07-28  
(Enforcement)

**NOTICE OF FILING**

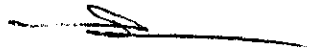
To: Edward R. Gower Patricia M. Gibson  
Attorney at Law Chancellor  
400 South Ninth Street, Ste. 200 Diocese of Peoria  
Springfield, IL 62701-1908 412 North East Madison Avenue  
Peoria, IL 61603-3720

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2004), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,  
PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
Attorney General of the  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY:   
THOMAS DAVIS  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: October 20, 2006

## CERTIFICATE OF SERVICE

I hereby certify that I did on October 20, 2006, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, APPEARANCE and COMPLAINT

To: Edward R. Gower  
Attorney at Law  
400 South Ninth Street, Ste. 200  
Springfield, IL 62701-1908

Patricia M. Gibson  
Chancellor  
Diocese of Peoria  
412 North East Madison Avenue  
Peoria, IL 61603-3720

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
State of Illinois Center  
Suite 11-500  
100 West Randolph  
Chicago, Illinois 60601



---

Thomas Davis  
Assistant Attorney General

This filing is submitted on recycled paper.

**RECEIVED**  
CLERK'S OFFICE

OCT 24 2006

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
PROVENA HOSPITALS, d/b/a PROVENA )  
UNITED SAMARITANS MEDICAL CENTER, )  
an Illinois not-for-profit corporation, and )  
RESURRECTION CATHOLIC CEMETERY )  
ASSOCIATION OF DANVILLE, ILLINOIS, )  
an Illinois not-for-profit corporation, )  
)  
Respondents. )

PCB 07-28  
(Enforcement)

**APPEARANCE**

I, THOMAS DAVIS, Assistant Attorney General of the State of Illinois, hereby file my  
appearance in this proceeding on behalf of the Complainant, PEOPLE OF THE STATE OF  
ILLINOIS.

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois,

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: \_\_\_\_\_  


THOMAS DAVIS  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: October 20, 2006

**RECEIVED**  
CLERK'S OFFICE

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

OCT 24 2006

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 -vs- )  
 )  
 PROVENA HOSPITALS d/b/a PROVENA )  
 UNITED SAMARITANS MEDICAL CENTER, )  
 an Illinois not-for-profit corporation, and )  
 RESURRECTION CATHOLIC CEMETERY )  
 ASSOCIATION OF DANVILLE, ILLINOIS, )  
 an Illinois not-for-profit corporation, )  
 )  
 Respondents. )

STATE OF ILLINOIS  
Pollution Control Board

PCB No. 07- 28  
(Enforcement)

**COMPLAINT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondents, PROVENA HOSPITALS d/b/a PROVENA UNITED SAMARITANS MEDICAL CENTER and RESURRECTION CATHOLIC CEMETERY ASSOCIATION OF DANVILLE, ILLINOIS, as follows:

**COUNT I**

**POTENTIALLY INFECTIOUS MEDICAL WASTE DISPOSAL VIOLATIONS**

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. The Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31

(2004), after providing the Respondents with notice and opportunity for a meeting with the Illinois EPA.

4. Provena Hospitals ("Provena") is an Illinois not-for-profit corporation and operates a hospital, the Provena United Samaritans Medical Center, located at 812 North Logan Avenue in Danville, Vermillion County, Illinois. Provena is a generator of potentially infectious medical waste ("PIMW").

5. Resurrection Catholic Cemetery Association of Danville, Illinois ("Resurrection") is an Illinois not-for-profit corporation and, under the auspices of the Catholic Diocese of Peoria, operates a cemetery at 818 Wendt Street in Danville, Vermillion County, Illinois.

6. Section 3.360 of the Act, 415 ILCS 5/3.360 (2004), provides as follows:

(a) "Potentially infectious medical waste" means the following types of waste generated in connection with the diagnosis, treatment (i.e., provision of medical services), or immunization of human beings or animals; research pertaining to the provision of medical services; or the production or testing of biologicals:

\* \* \*

(2) Human pathological wastes. This waste shall include tissue, organs and body parts. . . .

\* \* \*

7. Section 56.1 of the Act, 415 ILCS 5/56.1 (2004), provides, in pertinent part:

(A) No person shall:

(a) Cause or allow the disposal of any potentially infectious medical waste. . . .

(b) Cause or allow the delivery of any potentially infectious medical waste for transport, storage, treatment or transfer except in accordance with Board regulations.

\* \* \*

(d) Beginning July 1, 1992, cause or allow the delivery or transfer of any potentially infectious medical waste for transport unless:

- (1) the transporter has a permit issued by the Agency. . . .
- (2) a potentially infectious medical waste manifest is completed. . . .

\* \* \*

- (h) Transport potentially infectious medical waste unless the transporter carries a completed potentially infectious medical waste manifest. . . .

\* \* \*

- (l) Offer for transportation, transport, deliver, receive or accept potentially infectious medical waste for which a manifest is required, unless the manifest indicates that the fee required under Section 56.4 of this Act has been paid.

\* \* \*

8. Section 56.4(c) of the Act, 415 ILCS 5/56.4(c) (2004), requires the payment of a \$4.00 fee for each PIMW manifest.

9. Section 1420.104 of the Board's Biological Materials Regulations, 35 Ill. Admin. Code 1420.104, incorporates the statutory prohibitions of Section 56.1 of the Act, 415 ILCS 5/56.1 (2004).

10. Section 3.185 of the Act, 415 ILCS 5/3.185 (2004), defines "disposal" to include the "placing of any waste . . . into or on any land . . . such that any waste . . . or constituent thereof may enter the environment. . . ."

11. On or about February 12, 2003, and numerous prior occasions better known to the Respondents, Provena and Resurrection caused or allowed the disposal of PIMW consisting of human pathological wastes and body parts through the placing of such into or on the land at the cemetery.

12. On February 12, 2003, Robert Kariba, an employee of Resurrection, removed a box from his vehicle and placed it into the open grave following a grave side service for Homer Pinchon. When confronted by relatives of the deceased, Kariba stated that the box contained

body parts from Provena. The relatives observed the contents of the box to include a red medical waste bag and demanded that Kariba remove such from the grave, which Kariba did.

13. Subsequent investigations determined that, prior to the incident on February 12, 2003, PIMW consisting of human pathological wastes and body parts from Provena had several times been buried by Resurrection along the fence at the cemetery and, on occasions when the ground was frozen, interred within the graves of persons being buried on those occasions.

14. By causing or allowing the disposal of PIMW consisting of human pathological wastes and body parts at the cemetery, the Respondents have violated Section 56.1(A)(a) of the Act, 415 ILCS 5/56.1(A)(a) (2004), and Section 1420.104 of the Board's Biological Materials Regulations, 35 Ill. Admin. Code 1420.104.

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondents, PROVENA HOSPITALS d/b/a PROVENA UNITED SAMARITANS MEDICAL CENTER and RESURRECTION CATHOLIC CEMETERY ASSOCIATION OF DANVILLE, ILLINOIS :

A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;

B. Finding that Respondents have violated the Act and regulations as alleged herein;

C. Ordering Respondents to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2004), impose a *civil penalty of not more than the statutory maximum*; and



E. Granting such other relief as the Board may deem appropriate.

**COUNT II**  
**PIMW TRANSPORTATION WITHOUT REQUIRED MANIFESTS**

1-13. Complainant realleges and incorporates herein by reference paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count II.

12. On or about February 12, 2003, and numerous prior occasions better known to the Respondents, Provena and Resurrection caused or allowed the delivery or transfer of PIMW for transport without strict compliance with the Board's Biological Materials Regulations, without a permit issued by the Illinois EPA, and without a completed PIMW manifest, and thereby violated Sections 56.1(A)(b) and 56.1(A)(d) of the Act, 415 ILCS 5/56.1(A)(b) and (d) (2004), and Section 1420.104 of the Board's Biological Materials Regulations, 35 Ill. Admin. Code 1420.104.

13. On or about February 12, 2003, and numerous prior occasions better known to the Respondents, Provena and Resurrection caused or allowed the transport of PIMW without a completed PIMW manifest and the payment of the fee required by Section 56.4 of the Act, 415 ILCS 5/56.4 (2004), and thereby violated Sections 56.1(A)(h) and 56.1(A)(i) of the Act, 415 ILCS 5/56.1(A)(h) and (i) (2004), and Section 1420.104 of the Board's Biological Materials Regulations, 35 Ill. Admin. Code 1420.104.

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondents, PROVENA HOSPITALS d/b/a PROVENA UNITED SAMARITANS MEDICAL CENTER and RESURRECTION CATHOLIC CEMETERY ASSOCIATION OF DANVILLE, ILLINOIS :

A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;

- B. Finding that Respondents have violated the Act and regulations as alleged herein;
- C. Ordering Respondents to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2004), impose a civil penalty of not more than the statutory maximum; and
- E. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
Attorney General of the  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: 

THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: 10/20/06