



Mercury-Containing Equipment: New Handling and Disposal Options

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HEALTH CARE AND HAZARDOUS WASTE

All health care facilities generate hazardous wastes, which are types of wastes for which there are rigid handling and disposal requirements. A few categories of hazardous waste, including relatively common items that are often used by health care facilities but which have been deemed to pose a low risk, can be handled as "universal waste" instead of hazardous waste. The rules for handling and disposing of universal waste are less stringent than those for hazardous waste but must, nonetheless, be complied with completely to allow the exemption from hazardous waste handling requirements.

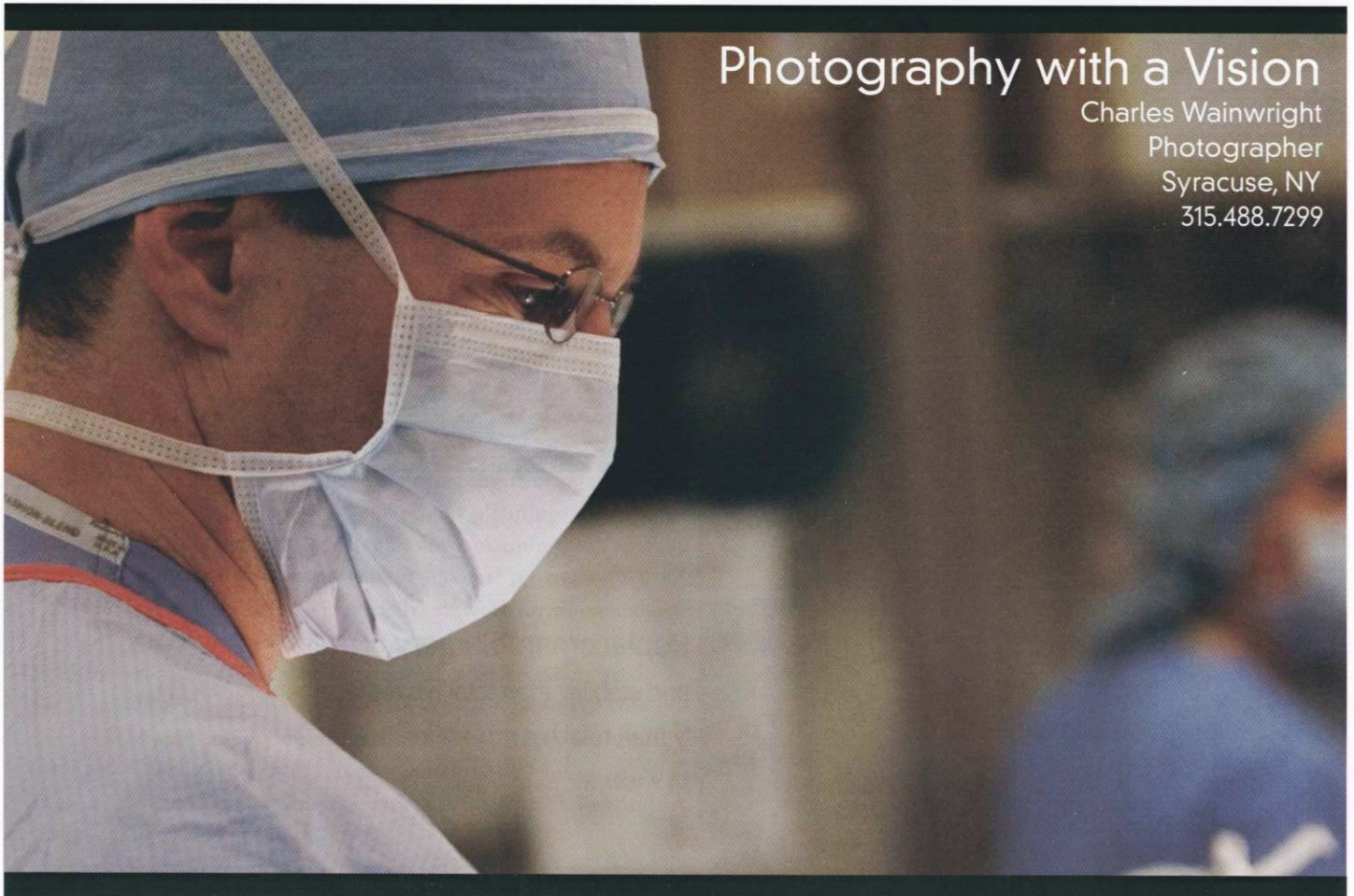
WHAT IS MERCURY-CONTAINING EQUIPMENT?

U.S. Environmental Protection Agency (USEPA) regulations allow states to include mercury-containing equipment (MCE) as a type of universal waste. MCE are devices or parts of devices that contain elemental mercury as an integral component of the device's function. Health care facilities, in particular, often generate a significant amount of MCE waste, including such devices as thermometers, sphygmomanometers, gastrointestinal tubes (e.g., bougies, feeding tubes, cantor tubes, esophageal dilators), otoscopes and pressure gauges (e.g., barometers, manometers, vacuum gauges, X-ray tubes, heating pad tilt switches), among other devices.

Even common switches such as those used in refrigerators, chest freezers and washing machines, as well as silent light switches, telephone switches and alarm switches, may be MCE.

HANDLING AND DISPOSAL OF MCE IN NEW YORK STATE

Until May of 2006, New York recognized only four types of universal waste: light bulbs that contain mercury or other heavy metals such as fluorescent, high intensity discharge, mercury vapor, neon and metal halide; batteries that contain heavy metals, including lead acid, lithium, mercury oxide and nickel cadmium; certain pesticides; and mercury



Photography with a Vision

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thermostats. While New York has not yet promulgated a rule including MCE in the types of universal waste, on May 8, 2006, New York State Department of Environmental Conservation (NYSDEC) Commissioner Denise M. Sheehan issued a Commissioner's Policy known as CP-39, permitting disposal of MCE as a universal waste.

In essence, CP-39 permits handling and disposal of MCE as *either* universal waste *or* hazardous waste until New York promulgates a formal regulation categorizing MCE as universal waste. Under CP-39, health care facilities can now handle all MCE, not just mercury thermostats, as part of their universal waste program. If a facility chooses to handle MCE as universal waste, it must comply with USEPA regulations governing handling and disposal of MCE as universal waste until New York creates its own MCE regulations.

FACTORS TO CONSIDER BEFORE DECIDING TO HANDLE YOUR MCE AS UNIVERSAL WASTE

There are myriad factors a health care facility should take into consideration when deciding whether to begin handling MCE as universal waste, such as the type, size and administration of the particular facility and the total volume of universal waste it may accumulate for disposal. Deciding to handle MCE as universal waste will have an effect on both the manner of handling the MCE and the required paperwork. Additionally, facilities must be aware that unless they comply strictly with all universal waste requirements for bulbs, batteries, MCE and pesticides, those wastes are not eligible for the universal waste management exemption and must be handled as hazardous waste. The penalties for mismanagement of universal waste can be significant. A knowledgeable attorney can help you assess your facility's waste

management policies so you can be sure your program is compliant and cost effective.

Ms. Austin, an associate at Hancock & Estabrook, LLP, concentrates her practice in the area of environmental law. Her practice covers a wide variety of environmental areas, including permitting, state and federal environmental regulatory compliance and enforcement, remediation, and zoning and land use. Ms. Austin has experience with issues related to environmental compliance of health care facilities, petroleum and chemical bulk storage, wastewater, wetlands, hazardous waste and environmental impact review (SEQRA). She also has experience in environmental, zoning and land use litigation, and has assisted applicants in obtaining approvals from local zoning, planning and historic preservation boards. Ms. Austin is active on the board of the Central New York Air & Waste Management Association. She served as the pro se law clerk for the Federal District Court for the Northern District of New York under the supervision of the Hon. Gustave J. DiBianco. Ms. Austin can be reached at (315) 471-3151. ■





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