

## **UNIVERSAL SETTLEMENT**

### DISPUTES BETWEEN OLD AND NEW OWNERS – AN IMPORTANT REMINDER

It is imperative for current and former operators of a facility to understand the potentially serious consequences of their failure to come to terms before the State's signing deadline with respect to how money earmarked for that facility pursuant to the Universal Settlement is to be divided between or among them. If, as a result of failure to resolve such a dispute, no agreements or releases are submitted on behalf of that facility to the State, but the State determines that there is sufficient "universality" because a sufficient number of other facilities have agreed to terms, then the Universal Settlement will be implemented. However, the money earmarked for that particular facility will simply "evaporate," *i.e.*, it will not be distributed among other facilities, but it also will not be held aside by the State pending further negotiations between the disputing parties, who will have lost the opportunity to participate in the Universal Settlement.

For that reason, it is strongly recommended that if an agreement cannot be reached between current and former operators prior to the deadline, they consider nevertheless signing the Agreement and releasing the State with an understanding between the parties that the money earmarked for the Facility will be held in escrow by whichever law firm has been designated to hold the money until the parties can reach a settlement. Otherwise, current and former owners may forfeit all funds otherwise available to that facility.