California State Board of Pharmacy
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STATE AND CONSUMER SERVICES AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
ARNOLD SCHWARZENEGGER, GOVERNOR

August 13, 2010

Mr. Burke Lucy
CalRecycle
801 K Street
Sacramento, CA 95814

Sent via email to: Burke.Lucy@calrecycle.ca.gov

RE: Comments on Evaluation of Home-Generated Pharmaceutical Programs in California

Dear Burke,

Thank you for this opportunity to provide comments on the above draft report to the Legislature that was issued in July by CalRecycle.

Your 2010 draft report focuses on three categories of assessment for drug take-back programs:

- An evaluation of the model programs for efficacy, safety, statewide accessibility and cost effectiveness,
- Consideration of the incidence of diversion of drugs for unlawful sale and use, and
- Recommendations for the potential implementation of a statewide program and statutory changes.

Our comments will address these categories.

The board strongly supports the development of appropriate drug-take back programs to meet an ever growing demand by the public to dispose of their unwanted pharmaceuticals in ways other than flushing them down the drain or placing them in trash receptacles. Over the last two years, the board has worked closely with CalRecycle (then the Integrated Waste Management Board) and the Department of Public Health in developing Model Guidelines for pharmacies and others that operate occasional or ongoing drug take-back programs.

These guidelines, adopted by the California Integrated Waste Management Board in February 2009, were promoted to California pharmacies in the February 2010 board newsletter to its licensees. However, due to budget and staffing issues in mid-2009, what would have been the August 2009 newsletter became the February 2010 newsletter, which was the next published newsletter of the board. As such, it is important to note that

pharmacies were not officially advised of the board's recommendations for use of the model guidelines until March 2010.

Thus, data collected from pharmacies operating take-back programs in 2010 or earlier are not likely to include data from model programs operating in pharmacies. Many pharmacies declined to establish take back programs at all until they knew the board's policy on such programs. Instead, only a limited number of pharmacies operated take back programs, none of which the board is aware of complied with the model guidelines.

At the current time, the board has just begun to add compliance checks of drug take-back programs in pharmacies during board inspections. The prevalence of such programs and the degree of adherence to the model take-back program requirements has not been assessed. However, board inspectors are advising any collection program operated in a pharmacy to comply with the guidelines.

Consequently and unfortunately, data reported from drug take back programs in California does not represent the impact of the model guidelines on collection possible through drug take-back programs in pharmacies.

From the Board of Pharmacy's perspective, the danger of drug take-back programs is one of creating drug diversion opportunities. Prescription drugs have value when they are no longer wanted by the consumer. This is a problem when they are left in the home and not disposed of, as well as when disposed of in a take-back program. Thus any take-back program needs to ensure it has appropriate safeguards against drug diversion by pharmacy staff, collection staff, and by the public.

In the last two years, the board has identified the diversion issues from non-model guideline take-back programs. Here are some examples:

1. Several months ago, a Northern California coroner's office advised the board of the death of a young woman who died from a drug overdose. An inspection of the woman's home identified a number of pills in baggies, and multiple prescription containers with diverse patient and pharmacy names on them. The woman worked as an esthetician outside a pharmacy, and near where an unattended large take-back drug collection bin was located. On the collection bin were directions to empty drugs from a prescription vial into a baggie before placing the drugs in the bin. The coroner believed that this was the likely source of this woman's drugs and reported this situation to the board. The board has contacted one individual whose name was on one prescription vial found in the home, and the patient stated she had given her drugs to someone in the pharmacy to place in the take-back bin. This take-back bin did not conform to California's model guidelines. The board also notes that once it began its investigation, the pharmacy discontinued the collection program.
2. In November 2008, a pharmacist in Washington pleaded guilty to collecting expired and unexpired medication from medical providers, hospices and clinics

purportedly to redistribute for humanitarian relief. However, he was instead filling the pharmacy's stock bottles with these drugs for re-dispensing the drugs to unknowing patients of the pharmacy (Attachment 1).

3. The board disciplined two unrelated pharmacies in 2009 for different schemes involving kick backs from reverse distributors for falsely claiming to return drugs to the manufacturer to obtain a rebate for returned drugs that the pharmacies had not really purchased but instead obtained from a reverse distributor (Attachment 2).
4. A photograph of an inappropriate collection activity where a large fishbowl is placed on a pharmacy's cashier counter that creates diversion opportunities by making returned drugs accessible to the public (Attachment 3).
5. A photograph displaying the need for security of the collected bins given the diversity and volume of items collected (Attachment 4).
6. A 2009 newspaper article about a police officer accused of stealing prescription pain medicine from the family of a man who had recently died. According to the report, the officer had advised the family that the police department offered a disposal service for prescription medicine (Attachment 5).

The board notes that is extraordinarily difficult to catch pharmacies that collect or purchase drugs from any unapproved source (such as drug take back, drug samples, physicians) and place them in pharmacy stock containers. The examples above are rarities in that they were detected.

Simply put, drug take-back programs operating where the pharmacy or patients can access the surrendered drugs, creates serious problems.

California has enacted the nation's toughest control measures to preserve the integrity of the state's prescription drug supply. This was in response to drug diversion and counterfeit drugs identified the nation's and California's drug supply. Over a staggered implementation schedule from 2015-2017, prescription drugs dispensed in California must be accompanied by an electronic pedigree that originates with the manufacturer identifying any entity that has owned the drugs as they are transferred through the pharmaceutical supply chain from manufacturer to wholesaler(s) to pharmacy. This e-pedigree system will ensure that drugs located in a pharmacy can be traced to their origins via electronic coding on the prescription stock bottle. However, despite the complexity of the e-pedigree system with respect to the statutory requirements and the accompanying technology to comply (which necessitated the far-off future implementation schedule), the value of the e-pedigree system could be lessened if pharmacy staff can access drugs from non-model take-back programs and re-add these drugs to stock containers. This would be a significant loss to the prescription drug supply and to patients in California.

Returning to the report, the board specifically agrees with the statement (page 24):

> Certain requirements in the Guidelines presented unique challenges to some programs. As discussed above safety (security) issues are usually the primary reason why existing programs did not qualify as model programs. Meeting these safety issues often involve increased costs.

However, it is these security features that provide the appropriate safety necessary to guard against drug diversion. Drug diversion by patients and licensed entities is a significant problem and the state needs to ensure that its drug take-back programs do not create more venues for diversion. Thus the costs of such security measures are necessary for those entities desiring to operate drug take-back programs.

The board strongly believes that the CIWMB/CalRecycle model guidelines need to be enacted so that they can be more effectively enforced. Enactment will increase compliance with appropriate disposal and end the current confusion about how to operate a take-back program statewide.

The board also notes that mail return by patients of unwanted drugs may offer additional advantages that are not greatly emphasized in the guidelines. This option warrants further review and discussion.

And as stated earlier, California pharmacies' adherence to these model programs has really not yet occurred as few pharmacies have modeled their programs on the guidelines in the few months since the board's policy position was published. Enactment of the standards, where participation by the pharmacy is voluntary, would likely increase participation.

The board anticipates working with interested stakeholders to enact the model guidelines and ensure the safety of the state's prescription drug supply and yet allow patients to appropriately dispose of their unwanted drugs.

Please do not hesitate to contact either me or the board's executive officer, Virginia Herold, with questions.

Sincerely,

STAN WEISSER
President

Attachments

Attachment 1

News Release
FOR IMMEDIATE RELEASE
November 04, 2008
Contact: Jodie Underwood
Number: (206) 553-1162

Edmonds Pharmacy "Manager of the Year" Pleads Guilty

Thousands of Pills Involved, Including Oxycodone and Hydrocodone

NOV 04 -- (Seattle) – DEA Special Agent in Charge (SAC) Arnold R. Moorin and the United States Attorney for the Western District of Washington, Jeffrey Sullivan, announced that on October 31, 2008, Milton W. Cheung, a Washington State licensed pharmacist, entered guilty pleas to two felony offenses: Acquiring Controlled Substances by Deception and Misbranding Drugs. These offenses are punishable by up to four years in prison, a $250,000 fine, and up to one year of supervised release. Cheung is set for sentencing on February 13, 2009.

Cheung, 55, of Lynnwood, Washington, has been employed for the last several years as a Pharmacy Manager at the Top Food Drug Store, in Edmonds, Washington. As pharmacy manager, Cheung was the principal pharmacist responsible for the daily activities and operations at the Edmonds Top Food Drug Store. From 2003 continuing through September 2008 (when he resigned), Cheung was named Pharmacy Manager of the Year, by Haggen Incorporated, the owner of Top Food Drug Store.

During 2007, and continuing through September 2008, Cheung solicited a number of Washington State medical providers, including doctors, hospices, and clinics, as well as Top Food Drug Store customers, to provide expired and unexpired drugs to him at the Edmonds Top Food Drug Store, on the alleged basis that he would provide these drugs to less developed countries as part of a philanthropic mission. While Cheung collected these drugs, he purposefully diverted much of the drugs collected by placing the drugs into the regular supply bottles at the Top Food Drug Store. This gave him a much larger inventory of drugs to distribute to pharmacy customers and made the pharmacy which he managed appear more profitable. Cheung then proceeded to distribute these returned drugs to customers at the Edmonds Top Food Drug Store when filling new customer prescriptions, even though a large portion of these drugs were expired, and despite the fact that all of the drugs had been adulterated in that they had already been distributed to and possessed by others, and were returned merchandise which Cheung was doling out as new inventory. Among the drugs deceptively collected by Cheung and later distributed by him, were such Schedule II through IV controlled substances as fentanyl, methadone, morphine, oxycodone, hydrocodone, and lorazapam, in addition to other drugs.

All prescription drugs carry an expiration date after which the drugs are no longer regarded as medically effective or safe to consumers. The entire drug re-distribution scheme conducted by Cheung, under the guise of providing drugs to developing nations, was unlawful; no such program had been sanctioned by the DEA or any other valid regulatory authority. In addition, all prescription medications in pharmacies are required by federal regulation to be maintained in stock containers which show their true lot number and expiration date. This is done to ensure the safety of what is being sold and distributed to the public. Cheung's prescription misbranding effectively countermanded and negated these safeguards.

In September 2008, in response to the criminal conduct by Cheung, Haggen Incorporated issued a drug recall, printed in the Seattle Times, advising customers of the Edmonds Top Food Drug Store to return all potentially expired drugs.

This case was investigated by the Drug Enforcement Administration, Internal Revenue Service and the Edmonds Police Department.

Attachment 2

EDMUND G. BROWN JR. Attorney General
of the State of California
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Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **DAVID JUE FONG** 502 S. Almansor St. Alhambra, CA 91801 **Pharmacist License No. RPH 37204** Respondent.	Case No. 3082 **ACCUSATION**

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about August 26, 1982, the Board of Pharmacy issued Pharmacist License Number RPH 37204 to David Jue Fong (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2009, unless renewed. Respondent is the Pharmacist-in-Charge of Cathay Medical Pharmacy, Inc. dba Cathay Medical Pharmacy, Pharmacy Permit No. PHY 36574, located at 626 W. College Street, Los Angeles, California.

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JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4300, subdivision (a) of the Code states: "Every license issued may be suspended or revoked."

6. Code section 477, subdivision (b), states that "'License' includes certificate, registration or other means to engage in a business or profession regulated by this code."

7. Section 480, subdivision (a)(2), provides that a board may deny a license if the applicant has committed dishonest, fraudulent, or deceitful acts with the intent to substantially benefit himself.

8. Section 810 of the Code states:

> (a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:
>
> . . . .
>
> (2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

9. Section 4301 of the Code states:

> The board shall take action against any holder of a license who is guilty of unprofessional conduct. . . . Unprofessional conduct shall include, but is not limited to, any of the following:
>
> . . . .

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(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

. . .

(p) Actions or conduct that would have warranted denial of a license.

COST RECOVERY

10. Section 125.3 of the Code provides that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

BACKGROUND

11. Cathay Medical Industries, Inc., owns Cathay Medical Pharmacy, Pharmacy Permit No. PHY 22806, and College Pharmacy, Pharmacy Permit No. PHY 36574. Cathay Medical Industries, Inc., is owned by Henry Fong (75%) and *Gerald* Wu (25%). Henry Fong is the Pharmacist-In-Charge of College Pharmacy, and Henry Fong's son, David Fong, is the Pharmacist-In-Charge of Cathay Medical Pharmacy.

12. Easy Returns Worldwide, Inc. (ERW) was a reverse distributor of pharmaceuticals. ERW returned expired drugs to the appropriate manufacturers for credit to its client pharmacies who purchased the drugs. ERW usually charged the pharmacies a 5-10% fee for said returns, which was based on the expected credits that the manufacturer would give to the pharmacies. Most manufacturers required the return of the actual products from ERW's retail pharmacies in order to give them credit.

13. In a criminal proceeding entitled *United States of America v. Richard J. Drury*, United States District Court, Eastern District of Missouri, Case No. S1-4:05 CR 33 ERW, Richard Drury, a corporate officer of ERW (Drury), was indicted, found guilty, and convicted of four counts of mail fraud for defrauding drug manufacturers by making false claims with pharmacies in connection with returned drugs. Pursuant to Drury's Indictment, between August

2000 and January 2002, Drury devised and participated in a scheme to create fraudulent returns of expired drugs to pharmaceutical manufacturers on behalf of pharmacies that had not purchased them with the false assertion that the pharmacies had purchased the drugs. This scheme caused the manufacturers to credit various pharmacies for returns that did not belong to them. The pharmacies paid approximately a 33% fee to Drury and ERW for the false returns credited to them.

14. David Fong agreed with ERW to participate in its fraudulent scheme in order to obtain easy profits for his family business. ERW returned dangerous drugs in November and December of 2000 under both Cathay Medical Pharmacy's and College Pharmacy's pharmacy permits and federal Drug Enforcement Administration (DEA) numbers, even though the returned drugs did not belong to either pharmacy. Based on the amount of the false returns on behalf of the two pharmacies, the Board investigator estimated that Respondent gained approximately $14,000 for College Pharmacy and approximately $19,000 for Cathay Medical Pharmacy by participating in ERW's fraudulent scheme.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct / Commission of Fraudulent, Deceitful Acts)

15. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), for committing fraudulent and deceitful acts constituting unprofessional conduct. In or about the year 2000, through ERW, a reverse distributor, Respondent presented false claims to drug manufacturers regarding returned drugs in order to obtain unearned financial benefit. Respondent's involvement in the fraudulent scheme is more fully described in paragraphs 11 through 14, above.

SECOND CAUSE FOR DISCIPLINE

(Knowingly Creating a Document Containing Factual Misrepresentations)

16. Respondent is subject to disciplinary action under Code section 4301, subdivision (g), for knowingly creating documents containing factual misrepresentations, thus constituting unprofessional conduct. In or about the year 2000, Respondent presented claims through ERW to drug manufacturers that contained factual misrepresentations regarding

allegedly returned drugs in order to obtain unearned financial benefit. Respondent's involvement in the fraudulent scheme is more fully described in paragraphs 11 through 15, above.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct / Commission of Acts That Would Have Warranted the Denial of a License)

17. Respondent is subject to disciplinary action under Code sections 480 and 4301, subdivision (p), for engaging in unprofessional conduct, specifically, for committing acts that would have warranted the denial of a license. Section 480, subdivision (a)(2) provides that a board may deny a license if the applicant has committed dishonest acts in order to benefit himself financially. In or about the year 2000, Respondent presented false claims through ERW regarding allegedly returned drugs in order to obtain unearned financial benefit, thus constituting a valid ground for license denial under section 480 and constituting unprofessional conduct and a cause for discipline under section 4301, subdivision (p). Respondent's involvement in the fraudulent scheme is more fully described in paragraphs 11 through 16, above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Acts and Omissions Involving the Exercise of Pharmaceutical Education, Training, and Experience)

18. Respondent is subject to disciplinary action under Code section 4306.5 for committing unprofessional acts involving the exercise of professional pharmaceutical education, training, and experience. In or about the year 2000, Respondent fraudulently committed unprofessional acts when he presented false claims through ERW regarding allegedly returned drugs in order to obtain unearned financial benefit. The process of preparing false claims through ERW, and the utilization of a pharmaceutical specialty company, namely ERW, to process these claims, utilized specialized knowledge, which Respondent had gained through his pharmaceutical education, training, and experience, constituting unprofessional conduct and a cause for discipline under section 4306.5. Respondent's involvement in the fraudulent scheme is more fully described in paragraphs 11 through 17, above.

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FIFTH CAUSE FOR DISCIPLINE

(Preparing and Presenting False Claims for Payment)

19. Respondent is subject to disciplinary action under section 810, subdivision (a)(2) for preparing and presenting false claims for payment, which constitutes a specifically identified form of unprofessional conduct. In or about the year 2000, Respondent fraudulently presented false claims through ERW regarding allegedly returned drugs in order to obtain unearned financial benefit. Respondent's involvement in the fraudulent scheme is more fully described in paragraphs 11 through 19, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacist License Number RPH 37204, issued to Respondent;

2. Ordering Respondent to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 7/22/08

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

EDMUND G. BROWN,JR., Attorney General
of the State of California
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Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **MICHELLE H. MAI** 15837 E. Palomino Blvd. Fountain Hills, Arizona 85268 Pharmacy License No. RPH 58012 Respondent.	Case No. 3234 **AMENDED ACCUSATION**

Complainant alleges:

PARTIES

1. Virginia K. Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about December 29, 2005, the Board of Pharmacy issued Pharmacist License No. RPH 58012 to Michelle H. Mai (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2009, unless renewed. Respondent also holds Pharmacist License No. 12319 issued by the Arizona State Board of Pharmacy, restricted as alleged herein.

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JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 490 of the Code states, in pertinent part, that:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendre."

5. Section 493 of the Code states, in pertinent part, that:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of the licensee in question."

6. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or

issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

...

(l) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee under this chapter.

...

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter."

...

7. Section 4301.5(a) of the Code states, in pertinent part:

"If a pharmacist possesses a license or is otherwise authorized to practice pharmacy in any other state or by an agency of the federal government, and that license or authority is suspended or revoked, the pharmacist's license shall be suspended automatically for the duration or revocation, unless terminated or rescinded as provided in subdivision (c)."

8. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Crime)

9. Respondent is subject to disciplinary action for unprofessional conduct under sections 490 and 4301(l) of the Code in that Respondent is convicted of a crime substantially related to the qualifications, functions, or duties of the pharmacist license issued to

Respondent. On or about November 17, 2008, in *United States of America v. Michelle Hoa-Chuong Mai*, United States District Court, District of Arizona, Case No. CR-08-00592-001PHX-FJM, Respondent entered her plea of guilty to violation of Title 18, United States Code section 1341 (mail fraud), a felony, whereby Respondent and Robert Hahn knowingly and willfully devised and intend to devise a scheme and artifice to defraud and to obtain money by means of materially false and fraudulent pretenses and representations. As part of her sentence, Respondent is prohibited from the practice of pharmacy until June 16, 2013. The circumstances of Respondent's felony conviction are given below.

(a) Respondent and Robert Hahn, both licensed pharmacists employed at Basha's Pharmacy #19, 3115 S. McClintock Road, Tempe, Arizona., submitted false and fraudulent prescription labels with rebate coupons to various pharmaceutical companies and requested rebate checks by mail to Respondent and her co-conspirator.

(b) Between September 2004 and August 2005, more than 2,500 false and fraudulent prescriptions were issued by Respondent and Robert Hahn, resulting in unearned rebate checks totaling about $29,749.60.

SECOND CAUSE FOR DISCIPLINE

(Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

10. Respondent is subject to disciplinary action for unprofessional conduct under section 4301(f) of the Code in that Respondent committed acts of moral turpitude, dishonesty, fraud, deceit and corruption during the course of her employment as a pharmacist at Basha's Pharmacy #19, 3115 S. McClintock Road, Tempe, Arizona. The circumstances are as set forth in Paragraph 9 hereof, incorporated herein, and concern fraudulent and false prescription orders processed by Respondent for controlled substances and other medications that included, but were not limited to, Triazolam .25 mg tablets, Tussionex Suspension, and Phentermine 15 mg capsules. Respondent also offered, delivered, received, or accepted unearned consideration while engaged in such conduct, and failed to maintain prescription records as required by law.

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THIRD CAUSE FOR DISCIPLINE

(Out of State Discipline)

11. Respondent is subject to disciplinary action for unprofessional conduct under section 4301(n) of the Code in that on or about January 25, 2006, the Arizona State Board of Pharmacy entered its Order No. 05-33-PHR(B) subjecting Respondent's Pharmacist License No. 12319 issued by the Arizona State Board of Pharmacy to discipline by suspending said license for a minimum of one year and upon termination of her suspension, placing Respondent on probation for a period of two years from the final date of suspension. On or about January 24, 2007, the Arizona State Board of Pharmacy terminated suspension of Respondent's Pharmacist License No. 12319 and imposed two years probation thereafter against Respondent.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacist License No. RPH 58012 issued to Michelle H. Mai;

2. Ordering Michelle H. Mai to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 5/26/09

Virginia Herold

VIRGINIA K. HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

Amended Accusation.wpd

Attachment 3

consultation
Take-Back Program

Attachment 4

THE PHARMACEUTICAL DISPOSAL PROGRAM IS FOR
RESIDENTIAL DISPOSAL ONLY.
COMMERCIAL DISPOSAL FROM MEDICAL FACILITIES, DOCTOR/DENTAL OFFICES, BOARD AND CARE FACILITIES, BUSINESSES, ETC., IS PROHIBITED BY STATUTE. VIOLATORS WILL BE REFERRED TO THE SAN MATEO COUNTY ENVIRONMENTAL HEALTH DEPARTMENT.
SAN MATEO PAL
RMACEUTICAL DISPOSAL
ONLY
DES HOS FARMACEUTICOS
SOLAMENTE

Attachment 5

SFGate.com

Alameda officer accused of painkiller scam

Henry K. Lee, Chronicle Staff Writer
Friday, February 27, 2009

(02-26) 16:57 PST ALAMEDA -- A veteran Alameda police sergeant was arrested Thursday on suspicion of stealing prescription painkillers from the family of a man who recently died, authorities said.

Ronald R. Jones, a 26-year department veteran, was arrested on suspicion of two counts of fraud and misrepresentation to obtain a controlled substance, said Alameda police Lt. Bill Scott.

Jones, 48, was booked at a downtown Oakland jail and then released. He has been placed on paid administrative leave.

Jones allegedly told the family of a man who died of natural causes that police offered a disposal service for prescription medications, Scott said. The department does not provide such a service. Authorities suspect that Jones contacted the families of several other people who died recently and offered to take away prescription medicines. Authorities said their investigation is continuing.

Investigators did not disclose what, if anything, Jones did with the medications.

Jones' attorney, Alison Berry Wilkinson, called the case "a complete and utter misunderstanding. He wasn't doing anything improper. He was operating within his responsibilities."

E-mail Henry K. Lee at hlee@sfchronicle.com.

http://sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/02/27/BAOH165OKH.DTL

This article appeared on page **B - 3** of the San Francisco Chronicle