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

In the Matter of the Accusation Against: **DAVID J. OFSTEDAHL** 70705 Ironwood Rancho Mirage, CA 92270 Original Pharmacist Lic. No. RPH 26029 and, **FIRESIDE PHARMACY** 70705 Ironwood Rancho Mirage, CA 92270 Original Pharmacy Permit No. PHY 33827 Respondents.	Case No. 2960 OAH No. L-2006110116

DECISION AND ORDER

The attached Stipulated Revocation of Licenses and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 11, 2007.

It is so ORDERED June 11, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

EDMUND G. BROWN JR., Attorney General
of the State of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General
T. MICHELLE LAIRD, State Bar No. 162979
Deputy Attorney General
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2323
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against: **DAVID J. OFSTEDAHL** 70705 Ironwood Rancho Mirage, CA 92270 Original Pharmacist Lic. No. RPH 26029 and, **FIRESIDE PHARMACY** 70705 Ironwood Rancho Mirage, CA 92270 Original Pharmacy Permit No. PHY 33827 Respondents.	Case No. 2960 OAH No. L-2006110116 **STIPULATED REVOCATION OF LICENSES AND ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties in this proceeding that the following matters are true:

PARTIES

1. This action was brought by Patricia Harris, the former Executive Officer of the Board of Pharmacy, who at all times acted solely in her official capacity. Virginia Herold (Complainant) is currently the Executive Officer of the Board of Pharmacy, and at all times has acted solely in her official capacity. She is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California, by T. Michelle Laird, Deputy Attorney General.

2. David J. Ofstedahl and Fireside Pharmacy (collectively, Respondents), are represented in this proceeding by attorney Robert W. Stewart, whose address is 24 Professional Center Parkway, Suite 100, San Rafael, CA 94903.

3. On or about April 30, 1969, the Board of Pharmacy issued Pharmacist License No. RPH 26029 to David J. Ofstedahl (Respondent Ofstedahl). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 2960 and will expire on May 31, 2008, unless renewed.

4. On or about October 8, 1986, the Board issued Pharmacy Permit No. PHY 33827 to Fireside Pharmacy, (Respondent Pharmacy), with David J. Ofstedahl as the Pharmacist in charge. The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and was canceled on February 27, 2006, when a change of ownership was filed.

JURISDICTION

5. Accusation No. 2960 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on July 5, 2006. Respondents timely filed a Notice of Defense contesting the Accusation. A copy of Accusation No. 2960 is attached hereto as exhibit A and is incorporated herein by reference.

///

///

///

ADVISEMENT AND WAIVERS

6. Respondents have carefully read, discussed with counsel, and fully understand the charges and allegations against them in Accusation No. 2960. Respondents also have carefully read, discussed with counsel, and fully understand the effects of this Stipulated Revocation of Licenses and Order.

7. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

9. Respondent Ofstedahl understands that by signing this stipulation he enables the Board to issue an order revoking Pharmacist License No. RPH 26029 without further process.

10. Respondent Pharmacy understands that by signing this stipulation it enables the Board to issue an order revoking Pharmacy Permit No. PHY 33827 without further process.

CULPABILITY

11. Respondents admit the truth of each and every charge and allegation in Accusation No. 2960, and agree that cause exists for discipline of Pharmacist License No. RPH 26029 and Pharmacy Permit No. PHY 33827.

///

///

///

///

CONTINGENCY

12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation, without notice to or participation by Respondents or their counsel. By signing the stipulation, Respondents understand and agree that neither may withdraw this agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Revocation of Licenses and Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

13. The parties understand and agree that facsimile copies of this Stipulated Revocation of Licenses and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

OTHER MATTERS

14. Respondents understand and agree that should either Respondent ever file an application for licensure or certification, or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondents must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2960 shall be deemed to be true, correct, and admitted by Respondents when the Board determines whether to grant or deny the application or petition.

15. Respondents understand and agree that should either Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, from any other health care licensing agency in the State of California, all of the charges and allegations against Respondents contained in Accusation No. 2960 shall be deemed to be true, correct, and admitted by Respondents for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure or certification.

16. Respondents agree not to apply for licensure or certification, or petition the Board for reinstatement for three (3) years from the effective date of this decision.

17. Respondents agree to pay the Board its costs of investigation and enforcement in the amount of $12,000.00, which shall be paid in full before any new or reinstated license or certification will issue.

18. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 26029, issued to Respondent David J. Ofstedahl, and Pharmacy Permit No. PHY 33827, issued to Fireside Pharmacy with David J. Ofstedahl as the pharmacist in charge, are revoked.

1. Respondent Ofstedahl shall lose all rights and privileges as a Pharmacist in California as of the effective date of the Board's Decision and Order.

2. Respondent Pharmacy shall lose all rights and privileges as a licensed pharmacy in California as of the effective date of the Board's Decision and Order.

3. Respondents shall cause to be delivered to the Board both the Pharmacist wall and pocket license and the Pharmacy Permit on or before the effective date of the Decision and Order.

4. Should either Respondent ever file an application for licensure or certification, or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondents must comply with all the laws, regulations and procedures for reinstatement in effect at the time the application or petition is filed, and all of the charges and allegations against Respondents contained in Accusation No. 2960 shall be deemed to be true, correct, and admitted by Respondents when the Board determines whether to grant or deny the application or petition.

///

///

5. Should either Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, from any other health care licensing agency in the state of California, all of the charges and allegations against Respondents contained in Accusation No. 2960 shall be deemed to be true, correct, and admitted by Respondents for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure or certification.

6. Respondents shall not apply for licensure or certification, or petition for reinstatement to the Board for three (3) years from the effective date of the Board of Pharmacy's Decision and Order.

7. Respondents agree to pay the Board its costs of investigation and enforcement in the amount of $12,000.00, which shall be paid in full before any new or reinstated license or certification will issue.

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

///

ACCEPTANCE

I have carefully read the above Stipulated Revocation of Licenses and Order and have fully discussed it with my attorney, Robert W. Stewart. I understand the stipulation and the effect it will have on my Pharmacist License and on Fireside Pharmacy's Pharmacy Permit. I enter into this Stipulated Revocation of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 4/17/07

DAVID J. OFSTEDAHL, for Himself Individually and on behalf of FIRESIDE PHARMACY
Respondents

I have read and fully discussed with Respondents the terms and conditions and other matters contained in this Stipulated Revocation of Licenses and Order. I approve its form and content.

DATED: 4/17/07

ROBERT W. STEWART
Attorney for Respondents

///
///
///
///
///
///
///
///

ENDORSEMENT

The foregoing Stipulated Revocation of Licenses and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: April 18, 07

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

LINDA K. SCHNEIDER
Supervising Deputy Attorney General

T. Michelle Laird

T. MICHELLE LAIRD
Deputy Attorney General

Attorneys for Complainant

Exhibit A

Accusation No. 2960

BILL LOCKYER, Attorney General
of the State of California
SHERRY L. LEDAKIS, State Bar No. 131767
Deputy Attorney General
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2078
Facsimile: (619) 645-2061

Attorneys for Complainant

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

In the Matter of the Accusation Against: DAVID J. OFSTEDAHL 73613 Highway III Palm Desert, CA 92260 Original Pharmacist License No. RPH 26029 FIRESIDE PHARMACY 73613 Highway III Palm Desert, CA 92260 Original Pharmacy Permit No. PHY 33827 Respondents.	Case No. 2960 OAH No. **ACCUSATION**

Complainant alleges:

PARTIES

1. Patricia Harris, Complainant, brings this Accusation solely in her official capacity as the Executive Officer of the California State Board of Pharmacy.

2. On or about April 30, 1969, the Board issued Pharmacist Number RPH 26029 to David J. Ofstedahl, "Respondent Ofstedahl." The Original Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2006, unless renewed.

///

3. On or about October 8, 1986, the Board issued Pharmacy Permit Number PHY 33827 to Fireside Pharmacy, "Respondent Pharmacy ". The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on October 1, 2006, unless renewed.

JURISDICTION

4. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 4301of the Code states in part:

> 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:
>
> . . .
>
> (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.
>
> . . .
>
> (q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board.

6. Section 4059 states:

> (a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.
>
> . . .

7. Section 4324 states:

> (a) Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.
>
> . . .

/ / /

8. Section 4332 of the Code states:

Any person who fails, neglects, or refuses to maintain the records required by Section 4081 or who, when called upon by an authorized officer or a member of the board, fails, neglects, or refuses to produce or provide the records within a reasonable time, or who wilfully produces or furnishes records that are false, is guilty of a misdemeanor.

9. Section 4081 of the Code states:

(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every . . . pharmacy, . . . holding a currently valid and unrevoked certificate, license, permit, registration, or exemption . . . who maintains a stock of dangerous drugs or dangerous devices.

(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or exemptee, for maintaining the records and inventory described in this section.

10. Section 4105 states:

(a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form.

(b) The licensee may remove the original records or documentation from the licensed premises on a temporary basis for license-related purposes. However, a duplicate set of those records or other documentation shall be retained on the licensed premises.

11. Section 4076 states:

(a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

. . .

(4) The name of the prescriber . . .

. . .

12. Section 4113(b) states:

The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

///

///

13. Section 4125 states:

(a) Every pharmacy shall establish a quality assurance program that shall, at a minimum, document medication errors attributable, in whole or in part, to the pharmacy or its personnel. . . .

14. Section 4342 states:

(a) The board may institute any action or actions as may be provided by law and that, in its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and tests as to quality and strength, provided in the latest edition of the United States Pharmacopoeia or the National Formulary, or that violate any provision of the Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of the Health and Safety Code).

(b) Any knowing or willful violation of any regulation adopted pursuant to Section 4006 shall be subject to punishment in the same manner as is provided in Sections 4336 and 4321.

15. California Code of Regulations, title 16, section 1718, states:

Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory.

16. California Code of Regulations, title 16, section 1711, states:

(a) Each pharmacy shall establish or participate in an established quality assurance program which documents and assesses medication errors to determine cause and an appropriate response as part of a mission to improve the quality of pharmacy service and prevent errors.

. . .

(e) The primary purpose of the quality assurance review shall be to advance error prevention by analyzing, individually and collectively, investigative and other pertinent data collected in response to a medication error to assess the cause and any contributing factors such as system or process failures. A record of the quality assurance review shall be immediately retrievable in the pharmacy. . . .

17. Business and Professions Code section 125.3.states that:

(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board or the board created by the Chiropractic Initiative Act, 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.

. . .

FACTS

18. On December 30, 2004, the Board received a complaint from Jerry L. Pettis Veteran's Administration Medical Center (VA) in Loma Linda, California. The complaint alleged that the VA contracts with Fireside Pharmacy through a pharmacy benefits manager, Medical Matrix, to provide local prescriptions for their community based clinics.

19. A review of the invoices by the VA found that Fireside Pharmacy may have filled prescriptions for patients who were already deceased or for patients who had not been prescribed the drugs being ordered.

20. The VA requested Fireside Pharmacy to provide copies of the original prescriptions from May 2004 through September 2004, which the Pharmacy failed to do. Fireside Pharmacy's failure to produce the requested prescriptions resulted in the complaint filed with the Board.

21. Information from the VA included a list of claims Fireside Pharmacy filed with Medical Matrix from July 2004-September 2004 with a spreadsheet of the questionable claims. Of the 500 submitted claims, the VA questioned 142 claims. The primary subscribers for the questioned claims were J.S., M.D. and J.I., M.D.

22. The Board requested the original prescriptions from Fireside Pharmacy for the questionable claims. When the prescriptions were not produced Inspector Valerie Sakamura called the pharmacy and spoke to an employee who stated she had pulled the documents, copied them and mailed them via certified mail. Inspector Sakamura never received the documents.

23. On July 14, 2005, Inspector Sakamura, conducted an investigation of Fireside Pharmacy. Respondent Ofstedahl was present. Inspector Sakamura requested the prescriptions. Respondent Ofstedahl went to the prescription counter and sat at a stool. The Inspector again asked him for the prescriptions. Respondent Ofstedahl said he would obtain the prescriptions for her, yet he remained on the stool. Inspector Ofstedahl began her inspection of the pharmacy. After about 45 minutes, respondent Ofstedahl told the Inspector that the prescriptions were not on the premises because they had been sent to his attorney.

///

24. Inspector Sakamura's inspection found that the Pharmacy did not have a quality assurance program and that there were numerous expired drugs on the shelves.

25. Inspector Sakamura requested and obtained from Respondent Ofstedahl the patient profiles for some of the questionable prescriptions. A review of the profiles and the daily logs shows the prescriptions were filled.

26. On July 28, 2005, the complainant stated she reviewed the patient list and found several prescriptions for persons who could not have been prescribed the medication because they were deceased.

27. The complainant also found some of the prescriptions were valid and removed those from the questioned prescription's list. The revised list contained 128 prescriptions.

28. Dr. J.S., M.D. was asked to review the prescription list with the patients' charts and determine if he had written the prescriptions. His review of the 128 prescriptions revealed that he had prescribed only two of the prescriptions. Dr. J.S. also found that several of the patients were not his patients, although their prescriptions were filled under his name.

29. Dr. J.I., also reviewed the prescription list and sent the Board a written statement saying he had not prescribed any of the prescriptions on the list.

30. A subpoena was issued to Respondent Fireside Pharmacy to produce the prescriptions requested twice previously. In response to the subpoena, of the 128 billings questioned by the VA, Fireside only produced 3 of the prescriptions. Of the three prescriptions produced two of them were issued by physicians other than Dr. J.S., but were entered under his name.

31. The total amount billed to and paid by Medical Matrix to Respondent Fireside Pharmacy for the questioned prescriptions was $10,706.71. When Medical Matrix requested the original prescriptions Fireside Pharmacy did not produce the prescriptions, but instead reversed the billing to Medical Matrix.

///

///

ALLEGATIONS AGAINST DAVID J. OFSTEDAHL

FIRST CAUSE FOR DISCIPLINE CONCERNING DAVID J. OFSTEDAHL

(Expired Drugs on Licensed Premises)

32. Respondent David J. Ofstedahl is subject to disciplinary action under section 4113(b), and section 4342, in that he sold pharmaceutical preparations and drugs that do not conform to the standards and tests as to quality and strength, by having expired drugs on the shelves, as set forth above in paragraphs 18 through and including paragraph 31.

SECOND CAUSE FOR DISCIPLINE CONCERNING DAVID J. OFSTEDAHL

(Failure to Maintain/Produce Records Required by Law)

33. Respondent David J. Ofstedahl is subject to disciplinary action under section 4332, in that he failed, neglected, or refused to maintain the records required by Section 4081 or when called upon by an authorized officer or a member of the board, failed, neglected, or refused to produce or provide the records within a reasonable time, as set forth above in paragraphs 18 through and including paragraph 31.

THIRD CAUSE FOR DISCIPLINE CONCERNING DAVID J. OFSTEDAHL

(Failure to Produce Prescriptions Required to be on Licensed Premises)

34. Respondent David J. Ofstedahl is subject to disciplinary action under section 4113(b), section 4081, section 4105 of the Code, and section 1718 of the California Code of Regulations, in that he failed to produce prescriptions after three separate requests by the Board and failed to maintain required records on the licensed premises, as set forth above in paragraphs 18 through and including paragraph 31.

FOURTH CAUSE FOR DISCIPLINE CONCERNING DAVID J. OFSTEDAHL

(Prescriptions Without Correct Name of Prescriber)

35. Respondent David J. Ofstedahl is subject to disciplinary action under section 4113(b), and section 4076, in that he dispensed prescriptions without the correct name of the prescriber on the container, as set forth above in paragraphs 18 through and including paragraph 31.

///

FIFTH CAUSE FOR DISCIPLINE CONCERNING DAVID J. OFSTEDAHL

(Furnishing of Dangerous Drugs Without a Prescription)

36. Respondent David J. Ofstedahl is subject to disciplinary action under section 4113(b) and Section 4059 of the Code, in that he furnished dangerous drugs without the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, as set forth above in paragraphs 18 through and including paragraph 31.

SIXTH CAUSE FOR DISCIPLINE CONCERNING DAVID J. OFSTEDAHL

(Falsely Signing, Making, Altering or Forging Prescriptions)

37. Respondent David J. Ofstedahl is subject to disciplinary action under section 4113(b) and section 4324, in that he signed the name of another, or of a fictitious person, or falsely made, altered, or forged prescriptions, as set forth above in paragraphs 18 through and including paragraph 31.

SEVENTH CAUSE FOR DISCIPLINE CONCERNING DAVID J. OFSTEDAHL

(Lack of Quality Assurance Program)

38. Respondent David J. Ofstedahl is subject to disciplinary action under section 4113(b) and section 4125 of the Code, in that he failed to have a quality assurance program that documented medication errors attributable to the pharmacy or its personnel on July 14, 2005, as set forth above in paragraphs 18 through and including paragraph 31.

EIGHTH CAUSE FOR DISCIPLINE CONCERNING DAVID J. OFSTEDAHL

(Failure to Maintain Records of Disposition of Dangerous Drugs)

39. Respondent David J. Ofstedahl is subject to disciplinary action under section 4113(b), section 4081 of the Code, and section 1718 of title 16 of the California Code of Regulations, in that Respondent Ofstedahl failed to maintain the records of sale, acquisition, or disposition of dangerous drugs during business hours open to inspection by authorized officers of the law, as set forth above in paragraphs 18 through and including paragraph 31.

///

///

NINTH CAUSE FOR DISCIPLINE CONCERNING DAVID J. OFSTEDAHL

(Attempted to Subvert Board Investigation)

40. Respondent David J. Ofstedahl is subject to disciplinary action under section 4113(b) and section 4301(q) of the Code, in that he engaged in conduct that subverted or attempted to subvert an investigation of the board, as set forth above in paragraphs 18 through and including paragraph 31.

ALLEGATIONS AGAINST FIRESIDE PHARMACY

FIRST CAUSE FOR DISCIPLINE CONCERNING FIRESIDE PHARMACY

(Expired Drugs on the Premises)

41. Respondent Fireside Pharmacy is subject to disciplinary action under section 4301(o) and section 4342 of the Code, in that it violated or attempted to violate a provision of the Pharmacy Law by maintaining expired drugs on the pharmacy premises, as set forth above in paragraphs 18 through and including paragraph 31.

SECOND CAUSE FOR DISCIPLINE CONCERNING FIRESIDE PHARMACY

(Failed to Produce a Quality Assurance Policy)

42. Respondent Fireside Pharmacy is subject to disciplinary action under section 4301(o), section 4125 of the Code, and section 1711 of title 16 of the California Code of Regulations, in that it violated or attempted to violate a provision of the Pharmacy Law by failing to produce a quality assurance policy and procedure during a Board inspection that occurred on July 14, 2005, as set forth above in paragraphs 18 through and including paragraph 31.

THIRD CAUSE FOR DISCIPLINE CONCERNING FIRESIDE PHARMACY

(Failed to Maintain and Produce Prescriptions on Licensed Premises)

43. Respondent Fireside Pharmacy is subject to disciplinary action under section 4301(o), section 4081, and section 4105 of the Code, in that it violated a provision of the Pharmacy Law by failing to produce and maintain prescriptions on the licensed premises, as set forth above in paragraphs 18 through and including paragraph 31.

///

///

FOURTH CAUSE FOR DISCIPLINE CONCERNING FIRESIDE PHARMACY

(Filled Prescriptions Without the Correct Name of the Prescriber)

44. Respondent Fireside Pharmacy is subject to disciplinary action under section 4301(o), and section 4076 of the Code, in that it violated a provision of the Pharmacy Law by dispensing prescriptions in a container not correctly labeled with the correct name of the prescriber, as set forth above in paragraphs 18 through and including paragraph 31.

FIFTH CAUSE FOR DISCIPLINE CONCERNING FIRESIDE PHARMACY

(Failed to Produce Requested Records)

45. Respondent Fireside Pharmacy is subject to disciplinary action under section 4301(o), section 4081 of the Code, and section 1718 of title 16 of the California Code of Regulations, in that it violated a provision of the Pharmacy Law by failing to maintain the records of sale, acquisition, or disposition of dangerous drugs open to inspection by authorized officers of the law, as set forth above in paragraphs 18 through and including paragraph 31.

SIXTH CAUSE FOR DISCIPLINE CONCERNING FIRESIDE PHARMACY

(Subverting an Investigation)

46. Respondent Fireside Pharmacy is subject to disciplinary action under section 4301(o) and section 4301(q) of the Code, in that it violated or attempted to violate a provision of the Pharmacy Law by three times failing to produce requested records, as set forth above in paragraphs 18 through and including paragraph 31.

SEVENTH CAUSE FOR DISCIPLINE CONCERNING FIRESIDE PHARMACY

(Furnishing Drugs Without A Valid Prescription)

47. Respondent Fireside Pharmacy is subject to disciplinary action under section 4301(o) and section 4059 of the Code, in that it violated or attempted to violate a provision of the Pharmacy Law by furnishing dangerous drugs without a valid prescription, as set forth above in paragraphs 18 through and including paragraph 31.

///

///

///

EIGHTH CAUSE FOR DISCIPLINE CONCERNING FIRESIDE PHARMACY

(Forgery of Prescriptions)

48. Respondent Fireside Pharmacy is subject to disciplinary action under section 4301(o) and section 4324 of the Code, in that it violated or attempted to violate a provision of the Pharmacy Law by forging prescriptions for dangerous drugs, as set forth above in paragraphs 18 through and including paragraph 31.

PRAYER

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

1. Revoking or suspending Pharmacist Number RPH 26029, issued to David J. Ofstedahl.

2. Revoking or suspending Pharmacy Permit Number PHY 33827, issued to Fireside Pharmacy.

3. Ordering David J. Ofstedahl and Fireside Pharmacy to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3.

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

DATED: 5/25/06

P. J. Harris

PATRICIA HARRIS, Executive Officer
Board of Pharmacy
State of California
Complainant

SD2005800398

Fireside Accusation 3 15.wpd