

December 2, 2005

AmerisourceBergen Corporation
Attn: General Counsel's Office
1300 Morris Drive Suite 100
Chesterbrook, PA 19087

Dear General Counsel of AmerisourceBergen:

The Project On Government Oversight (POGO) is overhauling and renewing its Federal Contractor Misconduct Database (www.pogo.org/db/index.cfm), a compilation of information from public resources regarding government contractors, including AmerisourceBergen. On October 18, 2005, I sent you information regarding findings relevant to AmerisourceBergen, which I have enclosed for your reference. As of today, I have not received a response from your office.

A written response is certainly in the best interest of everyone involved. It is the best way for your company to go on record regarding this process and the instances identified; your letter will be posted in its entirety on the database. Several companies have already responded and have expressed appreciation for the opportunity to express their views. POGO would prefer to receive a response by December 31, 2005 to ensure it is included with the launch of our new database.

If you have any questions, I can be reached at (202) 347-1122. Thank you for your time and consideration.

Sincerely,

Kevin L. Phelps
Project Director

Enclosure

Instances of Misconduct

1.

Case Name: N/A

Date: 3/29/2005, settlement date

Misconduct Type: Government Contract Fraud

Contracting Party: Government Civilian

Court Type: Administrative

Amount: \$5.975 million

Disposition: Settlement, Administrative Agreement

Synopsis:

PharMerica, a subsidiary of AmerisourceBergen, “agreed to pay \$5,975,000 and to enter into a corporate integrity agreement to resolve its liability under the CMPL provisions applicable to kickbacks. The [Office of Inspector General for the Department of Health and Human Services] alleged that PharMerica entered into a purchase and sale agreement with the owners of a nursing facility chain to acquire the chain’s institutional pharmacy for \$7.2 million. Prior to the purchase of the pharmacy, the pharmacy had been operational for only eight weeks and was serving a small percentage of the nursing facilities’ approximately 2800 residents. PharMerica allegedly conditioned its purchase of the pharmacy on the creation of a pharmacy services agreement (PSA) that contractually required the nursing facilities to order its drugs from the pharmacy. PharMerica allegedly negotiated the PSA itself in the month before the execution of the PSA. The OIG alleged that the PSA was backdated to July 9, 1996 to make it appear that the pharmacy had a longer operating history than it did.”

Documents to include:

<http://oig.hhs.gov/publications/docs/semiannual/2005/SemiannualSpring05.pdf>

<http://oig.hhs.gov/publications/docs/semiannual/2005/SemiannualSpring05.pdf>

<http://oig.hhs.gov/fraud/cia/agreements/Pharmerica.pdf>

2.

Case Name:

Date: 1/27/2005, settlement date

Misconduct Type: Health

Contracting Party: Non-Government Civilian

Court Type: Civil

Amount: \$3.2 million

Disposition: Settlement

Synopsis:

“The allegations in the class action suit alleged that prior to February 2000, PharMerica's IPC pharmacy [a subsidiary of AmerisourceBergen,] in Hawaii accepted returned medications and reissued them for other patients in violation of Hawaii law. There were no allegations of physical harm to any patient.”

“Under the terms of the settlement, PharMerica will pay \$2 million to a fund for class action members and \$1.2 million to the University of Hawaii for programs benefiting senior citizens. Any unclaimed monies in the fund established for the class action members also will be distributed to the

University of Hawaii for this purpose.”

Documents:

<http://www.amerisourcebergen.com/investor/phoenix.zhtml?c=61181&p=irol-newsArticle&ID=667656&highlight=>

Pending Cases

1.

Case Name: Fagan v. AmerisourceBergen Corp.

Misconduct Type: Health

Contracting Party: N/A

Court Type: Civil

Synopsis:

Patient, at age 16, a Suffolk County teenager, received injections of counterfeit drugs after emergency liver transplant in New York

Documents:

http://www.ericurkewitz.com/cases/complaint_drugs/amended1.pdf