

AFFIDAVIT

I, Mary F. LaFrance, Special Agent, Office of Criminal Investigations, Food and Drug Administration ("FDA"), being duly sworn, depose and state the following:

Your affiant is a Special Agent (SA) for the Food and Drug Administration (FDA) and has been so for approximately five years, and as a SA with other federal agencies since 1991. Your affiant is currently assigned to Denver, Colorado, and as a principal duty investigates violations of Title 18 and 21 of the United States Code. Your affiant is providing this affidavit in support of criminal complaint for the violation of Title 18 U.S.C. § 1365 (a) and 2, and Title 21 U.S.C. § 841(a)(2) and § 843(a)(3).

On July 1, 2009, I was informed by Drug Enforcement Agency (DEA), SA Michael Webster of a potential tampering incident. I was referred to Detective (Det.) Dale Wallis, Denver Police Department (DPD), who is a member of the DEA Tactical Diversion Squad. Det. Wallis related that since March 2009 he was investigating a potential theft/diversion of a controlled substance from an employee of Rose Medical Center (Rose), located in Denver, CO. On June 30, 2009, he learned that it involved the potential tampering with the drug Fentanyl, a Schedule II controlled substance which is a narcotic approximately 80 to 100 times stronger than morphine that is typically used in conjunction with pain management during and after major surgeries. His investigation has revealed the following information:

On October 21, 2008, Kristen Diane PARKER was hired as a "Scrub Tech" at Rose. Prior to her employment she submitted to a pre-employment blood test on October 9, 2008. On October 17, 2008, the hospital was informed that she tested positive for Hepatitis C (HCV). As required by the State of Colorado, Rose reported her results to Colorado Department of Public Health and Environment (CDPHE) on or about October 22, 2008. Rose representatives state that an Employee

Health Nurse, counseled PARKER regarding her HCV and exposure possibilities on approximately October 20, 2008.

PARKER is not a degreed medical professional. She is not a nurse, but has been trained as a surgical technician. As a scrub tech, part of her duties included preparing the operating rooms (ORs) for each surgery. On March 23, 2009, an employee of Rose reported she had been stuck by a needle that was in the scrub top pocket of PARKER. The employee reported PARKER was in a room that she was not assigned to and after the employee was stuck by the needle PARKER quickly deposited the needle into the sharps box, a waste disposal unit. PARKER was questioned by hospital staff and she denied any use of narcotics. She was asked to provide a sample for a drug screening urinalysis and was placed on administrative leave. On March 30, 2009, the lab results were reported as negative generally for narcotics and PARKER returned to work.

On April 13, 2009, an employee of Rose reported to Rose management that PARKER was found to be in an OR for which she was not assigned. She claimed to be setting up for the next surgery, however, she was not assigned to that room. She was immediately tested for drugs and placed on administrative leave. On April 20, 2009, PARKER submitted a resignation letter to Rose. April 21, 2009, a Medical Review Officer reported to Rose management that PARKER'S drug screen was positive for Fentanyl. The Human Resources Officer contacted PARKER and requested a meeting for April 22, 2009. PARKER did not appear for the meeting. On April 22, 2009, the Human Resources Officer notified PARKER her resignation was not accepted and that she was terminated from Rose. On April 23, 2009, Rose reported the incident to CDPHE and the Drug Enforcement Administration (DEA). PARKER started working at Audubon Ambulatory Surgery Center (Audubon) in Colorado Springs, CO, shortly after being terminated from Rose.

From on or about June 1, 2009 through June 29, 2009 CDPHE investigated the matter. On June 25, 2009, CDPHE issued a "Notice of Public Health Order 09-02" to PARKER stating she must immediately cease and desist any employment that requires contact with patients and/or pharmaceuticals. Within this letter, CDPHE states they interviewed PARKER on June 22, 2009, June 23, 2009 and June 25, 2009. They state PARKER admitted to switching syringes of Fentanyl, located on the anesthesia tray/cart with saline filled syringes. PARKER stated she injected herself with the Fentanyl at home. PARKER also admitted to tampering with Fentanyl in the same manner at her new place of employment, Audubon Ambulatory Surgery Center (Audubon) Colorado Springs, CO. Also in this letter, CDPHE states they received reports of (9) nine positive HCV tests from patients that had surgery performed at Rose. Their epidemiologic investigation suggests that these infections were caused by exposures during surgery, consistent with the times PARKER was working. On June 29, 2009, CDPHE confirmed to Rose management that PARKER has Hepatitis C with genotype 1B.

Sometime in April 2009, Det. Wallis contacted PARKER via telephone. PARKER made the statement to Det. Wallis, "I know, I fucked up." Later in her conversation she also admitted that she took a syringe of Fentanyl off the anesthesia cart.

On June 30, 2009, PARKER contacted Det. Wallis via telephone. PARKER told him she knew she was going to prison for the rest of her life because someone from Rose had called and told her that 9 people had tested positive for HCV after having had surgery. She claimed she did not know she had HCV. She agreed to meet Det. Wallis at Denver PD the same day.

Continuing on June 30, 2009, Det. Wallis advised PARKER of her Miranda rights. She signed an advisement of rights and voluntarily submitted to a video interview after waiving her Miranda rights. PARKER stated that on her first day of employment at Rose, they notified her that

she might have HCV and that she should see her personal physician. PARKER stated she did not follow-up on additional testing because she was trying to focus on her new job, did not have medical insurance and did not have any symptoms. She stated she believes she infected the nine patients that CDPHE informed her of. She also stated "I can't take back what I did, but I will have to live with it for the rest of my life, and so does everyone else." PARKER stated that from July 2006 to September 2008, while living in New Jersey, she used heroin. She stated she shared dirty needles and was 99.9% sure this was how she was exposed to HCV.

PARKER stated she filled an empty syringe that she had previously used, with approximately 5 cc of sterile saline solution and placed a hospital label on the syringe indicating it was Fentanyl. PARKER stated that she waited for the opportunity to take the Fentanyl when the OR staff would leave the OR. She would take the genuine Fentanyl syringe off the anesthesia cart and replace it with the syringe containing the saline solution.

PARKER stated that around April 13, 2009, she entered an OR she was not assigned to with the intention of talking to another nurse on duty. No one was in the room and the Fentanyl syringe was on the OR cart, so she swapped it with the saline syringe in her pocket. She then injected herself with the syringe of Fentanyl at 1 to 5 ml at a time. She injected herself sometimes at work in the bathroom before and after a surgery, and at home. PARKER claims she tampered with the syringes of Fentanyl 15 to 20 times between January and April 2009. PARKER admitted to Det. Wallis that she also tampered with Fentanyl syringes at Audubon.

Continuing on June 30, 2009, Det. Wallis arrested PARKER for the Colorado state felonies. PARKER was released on bond on July 1, 2009.

Nine patients have been confirmed to have Hepatitis C resulting from surgery at Rose. Rose estimates that approximately 5,000 patients might have been exposed to Hepatitis C and need to be

tested. Audubon estimates that approximately 1,000 patients might have been exposed and need to be tested. The potentially exposed patient count is significant due to the tampered used Fentanyl syringes as well as possibly the saline source she contaminated while extracting it with dirty needles.

Fentanyl is manufactured outside the State of Colorado.

Based upon the above information, your affiant believes that Kristen PARKER committed the offenses described in the complaint.

MARY F. LAFRANCE, SPECIAL AGENT

Subscribed to and sworn to before
me this _____ day of _____, 2009.

UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

DATE: July 2007

DEFENDANT: KRISTEN PARKER

DOB:

ADDRESS:

COMPLAINT FILED? YES NO

IF YES, PROVIDE MAGISTRATE CASE NUMBER: _____
IF NO, PROCEED TO "OFFENSE" SECTION

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? YES _____ NO _____

IF NO, A NEW WARRANT IS REQUIRED

OFFENSE: Title 18, United States Code, Sections 1365(a) and 2, Tampering with a Consumer Product and Aiding and Abetting the same.
Title 21, United States Code, Section 841(a)(2), Creating a Counterfeit Controlled Substance.
Title 18, United States Code, Sections 843(a)(3) and (d)(1), and Title 18, United States Code, Section 2, Obtaining a Controlled Substance by Deceit and Subterfuge, and Aiding and Abetting the same.

LOCATION OF OFFENSE (COUNTY/STATE): State and District of Colorado

PENALTY:
Title 18, United States Code, Sections 1365(a) and 2, Tampering with a Consumer Product and Aiding and Abetting the same: NMT 10 years imprisonment, NMT \$250,000 fine, or both, NMT 3 years supervised release, \$100 Special assessment fee; if serious bodily injury occurred, NMT 20 years imprisonment, NMT \$250,000 fine, or both, NMT 3 years supervised release, \$100 Special assessment fee; if death of an individual results, NMT life imprisonment, NMT \$250,000 fine, or both, NMT 3 years supervised release, \$100 Special assessment fee.
Title 21, United States Code, Section 841(a)(2), Creating a Counterfeit Controlled Substance: NMT 20 years imprisonment, NMT \$250,000 fine, or both; NLT 3 years supervised release; \$100 Special assessment fee. However, if death or serious bodily injury results to an individual, NLT 20 years imprisonment or more than life, NMT \$1,000,000 fine or both; NLT

3 years supervised release; \$100 Special assessment fee.

Title 21, United States Code, Sections 843(a)(3) and (d)(1), and Title 18, United States Code, Section 2, Obtaining a Controlled Substance by Deceit and Subterfuge, and Aiding and Abetting the same: NMT 4 years imprisonment, NMT \$250,000 fine, or both; NMT 3 years supervised release; \$100 Special assessment fee.

AGENT:

May Lafrance, Special Agent
U.S. Food and Drug Administration
Office of Criminal Investigations

AUTHORIZED BY:

Jaine Peña
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

_____ five days or less X over five days _____ other

THE GOVERNMENT

X will seek detention in this case _____ will not seek detention in this case

The statutory presumption of detention is or is not applicable to this defendant. (Circle one)

OCDETF CASE: _____ Yes X No