

STATE OF WISCONSIN,	)	
	)	
Plaintiff,	)	Case No.: 04-CV-1709
	)	
v.	)	
	)	
AMGEN INC., <i>et al.</i> ,	)	
	)	
Defendants.	)	

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**ABBOTT LABORATORIES' RESPONSES AND OBJECTIONS TO  
PLAINTIFF'S AMENDED NOTICE OF DEPOSITION**

Defendant Abbott Laboratories ("Abbott") by its attorneys, and pursuant to Wisconsin Stat. §§ 804.05(2)(e) and 804.05(4)(b), submits the following objections to Plaintiff State of Wisconsin's Amended Notice of Deposition of Defendant Abbott Laboratories, Inc. (the "Notice").

**GENERAL OBJECTIONS TO NOTICE**

A. Abbott generally objects to the Notice to the extent it is directed at Abbott Laboratories, Inc., a corporate entity that is not a defendant in this action.

B. Abbott generally objects to the Notice to the extent it seeks information that is protected from disclosure by the attorney-client privilege, any medical records privilege, the attorney work-product doctrine, the joint-defense privilege, the consulting expert privilege, third-party confidentiality agreements or protective orders, and/or any other applicable privilege, rule or doctrine.

C. Abbott generally objects to the Notice as unduly burdensome to the extent it contains topics on which Abbott witnesses have already provided testimony in other AWP-related litigation. Abbott objects to the extent Plaintiff seeks to explore topics that have already

been explored in prior AWP-related depositions, transcripts of which Plaintiff either has or will have in its possession.

D. Abbott generally objects to the Notice to the extent it seeks confidential and/or proprietary information.

E. Abbott generally objects to the Notice to the extent it exceeds the scope of discovery permitted under the Wisconsin Rules of Civil Procedure, Wisconsin law, and applicable Court Rules or Orders.

F. Abbott generally objects to the Notice to the extent: (1) the discovery sought by any topic is unreasonably cumulative or duplicative, or is obtainable from some other source (including, but not limited to, a public source) that is more convenient, less burdensome, or less expensive; and (2) compliance with any topic would be unduly burdensome, unduly expensive, harassing, annoying or oppressive.

G. Abbott generally objects to the Notice to the extent it calls for testimony regarding confidential patient information. Abbott will not disclose any such information to the extent it is under any obligations to maintain the patient information in confidence. Abbott will not disclose such information unless the patient grants Abbott permission to do so.

H. Abbott generally objects to any implications and to any explicit or implicit characterization of the facts, events, circumstances, or issues in the areas of inquiry. Any response by Abbott is not intended to indicate that Abbott agrees with any such implications or characterizations, or that such implications or characterizations are relevant to this litigation.

I. Abbott generally objects to the areas of inquiry to the extent they seek testimony from an undefined time period as overly broad, unduly burdensome and neither relevant nor likely to lead to the discovery of admissible evidence. Further, Abbott objects to providing any

testimony relating to events or transactions that occurred after the State filed its original complaint on June 3, 2004.

J. Abbott generally objects to the areas of inquiry to the extent they seek testimony regarding any drugs other than the Deposition Drugs as overly broad, unduly burdensome and neither relevant nor likely to lead to the discovery of admissible evidence.

K. Abbott generally objects to the areas of inquiry to the extent they seek testimony regarding the sales and reimbursement of Abbott drugs outside of the State of Wisconsin as overly broad, unduly burdensome and neither relevant nor likely to lead to the discovery of admissible evidence.

L. Abbott generally objects to the extent the Notice seeks information from divisions other than Abbott's Pharmaceutical Products Division ("PPD") or what was formerly known as its Hospital Products Division ("HPD") as overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

M. Abbott generally objects to the areas of inquiry to the extent they require Abbott to produce a witness with particularized knowledge of each and every drug purportedly defined in the Deposition Notice as overly broad and unduly burdensome.

N. Abbott generally objects to the areas of inquiry to the extent they require Abbott to produce a witness with particularized knowledge of the terms of particular sales transactions for every sales transaction purportedly at issue as overly broad and unduly burdensome.

O. Abbott generally objects to the areas of inquiry to the extent they are directed to Defendants other than Abbott and will therefore respond only as to Abbott.

P. Abbott generally objects to the Notice to the extent it seeks information unknown to Abbott as overly broad, unduly burdensome and neither relevant nor likely to lead to the discovery of admissible evidence.

Q. Abbott generally objects to the Notice to the extent it seeks testimony related to “any” of Abbott’s “subsidiaries.” Abbott will only respond as to the defendant in this case, Abbott Laboratories.

R. Abbott generally objects to the Notice to the extent that it demands the production of documents, and hereby incorporates by reference all the objections asserted in Abbott Laboratories’ Responses to Plaintiff’s Requests for Production of Documents and Abbott Laboratories’ Responses to Plaintiff’s Interrogatories.

S. Abbott generally objects to the Notice to the extent it uses various vague, ambiguous, and undefined terms.

T. To the extent the Notice incorporates any terms defined by Plaintiff’s Requests for Production or Plaintiff’s Interrogatories, Abbott hereby incorporates by reference all the objections to definitions asserted in Abbott Laboratories’ Responses to Plaintiff’s Requests for Production of Documents and Abbott Laboratories’ Responses to Plaintiff’s Interrogatories.

U. Abbott generally objects to producing any witness in response to the Amended Notice after the deadline for the close of fact discovery set by the Court.

V. Abbott generally objects to the Notice because the date and time of the deposition was not cleared with Abbott or its counsel beforehand.

W. Abbott generally objects to the deposition of its corporate representatives taking place in Madison, Wisconsin.

X. Abbott incorporates any objections made by its co-defendants as if set forth herein.

Y. All of Abbott's objections to the Notice are made without in any way waiving: (a) the right to object, on the grounds of competency, relevancy, materiality, privilege, or other grounds of admissibility as evidence for any purpose in any subsequent proceeding in this action or any other action; and (b) the right to object on any ground to other discovery requests involving or relating to the subject matter of the Notice.

### **OBJECTIONS TO AREAS OF INQUIRY**

Subject to and in accordance with the foregoing General Objections, Abbott responds as follows:

1. The reason(s) for Defendant signing Medicaid rebate agreements pursuant to 42 U.S.C. § 1396r(a)(1).

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the term "Medicaid rebate agreements pursuant to 42 U.S.C. § 1396r(a)(1);" and (ii) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness knowledgeable about the reasons for signing the Medicaid Rebate Agreement entered into pursuant to 42 U.S.C. § 1396r-8, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

2. Defendant's knowledge and understanding of the federal Medicaid programs laws, regulations, and rules, including 42 C.F.R. § 447.331 and 42 C.F.R. § 447.301.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is not reasonably calculated to lead to the discovery of relevant or admissible evidence to the extent it seeks opinion rather than factual testimony; (ii) seeks testimony

regarding the federal Medicaid program's laws, regulations, and rules applicable to entities and persons other than Abbott; (iii) seeks legal conclusions and/or opinion testimony; and (iv) to the extent it seeks information protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness to provide non-privileged factual, but not legal or opinion, testimony regarding Abbott's knowledge and understanding of the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

3. Defendant's knowledge of the Wisconsin Medicaid Agency's laws, regulations, and rules, including Defendant's knowledge of the Wisconsin Medicaid Agency's reimbursement formula and methodology for prescription drugs.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms "reimbursement formula," "methodology," and "prescription drugs;" (ii) is not reasonably calculated to lead to the discovery of relevant or admissible evidence to the extent it seeks opinion rather than factual testimony; (iii) seeks legal conclusions and/or opinion testimony; (iv) seeks testimony regarding Wisconsin laws, regulations, and rules applicable to entities and persons other than Abbott; and (v) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness to provide non-privileged factual, but not legal or opinion, testimony regarding Abbott's knowledge and understanding of Wisconsin Medicaid's reimbursement formula for prescription drugs, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

4. Defendant's knowledge and understanding of the Wisconsin consumer protection laws, including but not limited to Wis. Stat. § 100.18(10)(b).

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the term “consumer protection laws;” (ii) is not reasonably calculated to lead to the discovery of relevant or admissible evidence to the extent it seeks opinion rather than factual testimony; (iii) seeks testimony regarding the federal Medicaid program’s laws, regulations, and rules applicable to entities and persons other than Abbott; (iv) seeks legal conclusions and/or opinion testimony; and (v) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

5. Defendant's knowledge and understanding of the Medicare Part B program's laws, regulations, and rules relating to the reimbursement formula for covered drugs, including Defendant's knowledge that prior to January 1, 2005, the reimbursement formula for a covered drug (including the Medicare Part B beneficiary's 20% co-payment) was based on the Average Wholesale Price (AWP) of the drug.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “reimbursement formula,” “covered drug” and “based on;” (ii) is not reasonably calculated to lead to the discovery of relevant or admissible evidence to the extent it seeks opinion rather than factual testimony; (iii) seeks legal conclusions and/or opinion testimony; and (iv) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness to provide non-privileged factual, but not legal or opinion, testimony regarding Abbott’s knowledge and understanding of the Medicare Part B program’s

laws, regulations, and rules relating to the reimbursement formula for the Deposition Drugs, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

6. The information or documents, if any, about which Defendant is aware, which show, or which Defendant believes may tend to show, that the net price paid by retail pharmacies, long-term care pharmacies, mail-order pharmacies, or doctors for the drugs listed on Exhibit A to this notice of deposition (Deposition Drugs) was equal to or greater than the then current Average Wholesale Price (AWP) published by either First DataBank, the Red Book, or Medispan for the Deposition Drugs.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “net price,” and “then current Average Wholesale Price;” (ii) is duplicative of Plaintiff’s Interrogatories and Requests for Production; and (iii) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the prices it charged the retail class of trade for the Deposition Drugs, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

7. The information or documents which show that the then current Wholesale Acquisition Cost (WAC) or Net Wholesale Price (NWP) published by First DataBank, Red Book, or Medispan was higher than the actual net price paid by wholesalers to Defendant for the Deposition Drugs.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “then current Wholesale Acquisition Cost,” “Net Wholesale Price,” and “actual net price;” (ii) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production; and (iii) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the prices it charged the retail class of trade for the Deposition Drugs, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

8. Defendant's knowledge, understanding, or belief of actual net prices paid (in relation to Average Wholesale Price and Wholesale Acquisition Cost) by retail pharmacies, long-term care pharmacies, mail-order pharmacies, and doctors for the Deposition Drugs based in whole or in part on its knowledge of direct sales from Defendant to these entities.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “actual net prices” and “direct sales;” and (ii) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the prices it charged the retail class of trade for the Deposition Drugs, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

9. Defendant's knowledge, understanding, or belief of the actual or typical markup or margin above a wholesaler's actual net acquisition cost applied by a wholesaler when selling or re-selling the Deposition Drugs to retail pharmacies, long-term care pharmacies, mail-order pharmacies, or doctors.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “actual or typical markup,” “margin,” “wholesaler’s actual net acquisition cost,” “applied by,” “selling,” and “re-selling;” and (ii) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness to provide testimony regarding Abbott's knowledge and understanding, if any, of the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

10. Defendant's knowledge of the net price paid (in relation to Average Wholesale Price and Wholesale Acquisition Cost) by retail and chain pharmacies, long-term care pharmacies, mail-order pharmacies, home health care entities, or doctors for the Deposition Drugs when purchased through wholesalers.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms "net price paid," "chain pharmacies," "home health care entities" and "purchased through wholesalers;" and (ii) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness to provide testimony regarding Abbott's knowledge, if any, of the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

11. Defendant's knowledge or belief of the markup or margin above a wholesaler's actual net acquisition cost applied by a wholesaler when selling or re-selling the Deposition Drugs to retail and chain pharmacies, long-term care pharmacies, mail-order pharmacies, home health care entities, or doctors.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms "markup," "margin," "wholesaler's actual net acquisition cost," "applied by," "selling," "re-selling," "chain pharmacies," and "home health care providers;" and (ii) seeks information that is protected by

the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness to provide testimony regarding Abbott's knowledge, if any, of the subject matters of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

12. The documents or information, if any, about which Defendant is aware, which show, or which Defendant believes may tend to show, that the then current Average Wholesale Price (AWP) published by either First DataBank, the Red Book, or Medispan was higher than the actual net price paid by retail pharmacies, long-term care pharmacies, mail-order pharmacies, or doctors for the Deposition Drugs.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms "then current Average Wholesale Price" and "actual net price;" (ii) is duplicative of Plaintiff's previous Interrogatories and Requests for Production; and (iii) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness to provide testimony regarding Abbott's knowledge, if any, of the subject matters of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

13. The discounts, rebates, chargebacks, free goods, incentives, or other things of value offered by Defendant to wholesalers, retail pharmacies, long-term care pharmacies, mail-order pharmacies, or doctors that would reduce the net price paid by these entities for the Deposition Drugs.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms "discounts," "rebates," "chargebacks," "free goods," "incentives," "other things of value," "offered," and "net

price paid;” and (ii) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness to provide testimony regarding Abbott’s knowledge, if any, of the subject matters of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

14. Defendant's pricing decisions, pricing strategies, and pricing recommendations, including but not limited to, decisions, strategies, and recommendations regarding price discounts, rebates, chargebacks, credits, inventory management agreements, and other forms of price reductions relating to the Deposition Drugs.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “pricing decisions,” “pricing strategies,” “pricing recommendations,” “decisions,” “strategies,” “recommendations,” “regarding,” “price discounts,” “rebates,” “chargebacks,” “credits,” “inventory management agreements,” and “other forms of price reductions;” and (ii) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness to provide testimony regarding Abbott’s knowledge, if any, of the subject matters of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

15. Defendant's marketing decisions, plans, and strategies, market share research, product launches, and advertising relating to the Deposition Drugs.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “marketing

decisions,” “plans,” “strategies,” “market share research,” “product launches,” and “advertising;” and (ii) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

16. Defendant's knowledge and understanding of the competitive environment for each Deposition Drug, and its impact on Defendant's marketing or pricing decisions for that drug, or for any part of its product line, to the extent that the Deposition Drug was affected or involved.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it is overly broad, unduly burdensome, vague, and ambiguous, particularly with respect to the terms “competitive environment,” “impact on,” “marketing or pricing decisions,” and “any part of its product line.”

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness knowledgeable about the competitive environment for the Deposition Drugs in general, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

17. Defendant's sales strategies, sales staff training, sales meetings, competitive sales research, sales staff evaluations, and sales forecasts for the Deposition Drugs.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is overly broad and unduly burdensome; (ii) is vague and ambiguous, particularly with respect to the terms and phrases “sales strategies,” “sales staff training,” “sales meetings,” “competitive sales research,” “sales staff evaluations,” and “sales forecasts;” and (iii) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness knowledgeable about sales strategies for the Deposition Drugs in general, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

18. Communications between Defendant and First DataBank, the Red Book, and Medispan about the Targeted Drugs including the pricing information (such as AWP, WAC, SWP, DP) provided by Defendant to these entities and Defendant's definitions of these terms.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “SWP,” “DP,” “provided by” and “definitions;” (ii) assumes that Abbott defines all of the pricing terms listed; (iii) seeks communications over an undefined period of time and involving non-specified persons; and (iv) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

19. Defendant's reason(s) for supplying pricing information (such as AWP, WAC, SWP, DP) to First Databank, the Red Book, or Medispan for the Deposition Drugs.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “supplying,” “SWP,” and “DP;” and (ii) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this

topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

20. Defendant's knowledge, understanding, and belief of the relationship between the pricing information (such as AWP, WAC, SWP, DP) Defendant supplied to First DataBank, the Red Book, or Medispan and the pricing information published by First DataBank, the Red Book, or Medispan for the Deposition Drugs.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms "SWP," "DP," and "supplied;" and (ii) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

21. Defendant's knowledge, understanding, and belief of the use of Defendant's reported pricing information (such as AWP, WAC, SWP, DP) by First DataBank, the Red Book, or Medispan, including but not limited to the transmission of that information to the Wisconsin Medicaid program.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it is vague and ambiguous, particularly with respect to the terms "use," "reported pricing information," "SWP," "DP," and "transmission."

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

22. The action(s), if any, taken by Defendant to stop, object to, or otherwise oppose the publication of the Wholesale Acquisition Cost (WAC) or Average Wholesale Price (AWP) by First DataBank, the Red Book, or Medispan for any of the Deposition Drugs and the reason(s) for any such action(s).

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry to the extent it seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

23. To the extent Defendant stopped reporting any pricing information (such as AWP, WAC, SWP, DP) to First DataBank, the Red Book, or Medispan, for the Deposition Drugs, the reason(s) for doing so and the date(s) that such reporting stopped.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “stopped reporting,” “any pricing information,” “SWP,” and “DP;” (ii) is unduly burdensome to the extent it requires Abbott to produce a witness with particularized knowledge of dates; and (iii) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

24. Defendant's confirmation or acquiescence that the pricing information published by First DataBank, Red Book or Medispan for the Deposition Drugs was true and accurate.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it is vague and ambiguous, particularly with respect to the terms “confirmation,” “acquiescence,” “true,” and “accurate,” and assumes matters for which there is no support.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

25. The information and/or data that Defendant has purchased, obtained, or reviewed from First DataBank, the Red Book, Medispan, or IMS Health relating to the Deposition Drugs, including but not limited to, pricing and market share.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is not reasonably calculated to lead to the discovery of admissible evidence to the extent the term “has” purports to require Abbott to provide testimony concerning matters after the filing of the Complaint; (ii) is overly broad because it is not limited to the scope of this lawsuit; and (iii) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

26. Whether Defendant ever communicated to First DataBank, the Red Book, or Medispan that the Average Wholesale Prices (AWP) that Defendant reported to these entities was neither a price that was actually an average of wholesale prices, nor a price that was actually paid by retail pharmacies, long-term care pharmacies, mail-order pharmacies, or doctors for the Deposition Drugs and, if so, when such communications took place and of what they consisted.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is confusing; (ii) is vague and ambiguous, particularly with respect to the terms “price that was actually an average of wholesale prices,” and “price that was actually paid;” (iii) seeks communications over an undefined period of time and involving non-specified persons; and (iv) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

27. Whether Defendant ever communicated to anyone in the Wisconsin Medicaid Program that the Average Wholesale Prices (AWP) that Defendant reported to First DataBank, the Red Book, or Medispan was neither a price that was actually an average of wholesale prices, nor a price that was actually paid by retail pharmacies, long-term care pharmacies, mail-order pharmacies, or doctors for the Deposition Drugs and, if so, when such communications took place and of what they consisted.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is confusing; (ii) is vague and ambiguous, particularly with respect to the term “price that was actually an average of wholesale prices,” and “price that was actually paid;” (iii) seeks information that Plaintiff already has in its possession; (iv) seeks communications over an undefined period of time and involving non-specified persons; and (v) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

28. Whether Defendant ever communicated to First DataBank, the Red Book, or Medispan that the Wholesale Acquisition Cost (WAC) that Defendant reported to these entities was not the net price actually paid by wholesalers to Defendant for the Deposition Drugs and, if so, when such communications took place and of what they consisted.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the term “net price actually paid by wholesalers;” (ii) seeks communications over an undefined period of time and involving non-specified persons; and (iii) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

29. Whether Defendant ever communicated to anyone in the Wisconsin Medicaid Program that the Wholesale Acquisition Cost (WAC) that Defendant reported to First DataBank, the Red Book, or Medispan was not the net price actually paid by wholesalers to Defendant for the Deposition Drugs and, if so, when such communications took place and of what they consisted.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the term “net price actually paid by wholesalers;” (ii) seeks information that Plaintiff already has in its possession; (iii) seeks communications over an undefined period of time and involving non-specified persons; and (iv) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

30. The methodology used by Defendant to calculate the Average Manufacturer's Price (AMP) (as defined by 42 U.S.C. §1396r-8(k)(1)) for the Deposition Drugs and Defendant's understanding of the use of AMP by CMS, including but not limited to its use in connection with rebates under the Medicaid rebate statute.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “methodology,” “used to calculate,” “use of AMP,” “use in connection with rebates,” and “the Medicaid rebate statute;” (ii) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production; (iii) implies that Abbott should have calculated AMP based solely on the definition in the statute and refers Plaintiff to the Rebate Agreement entered into by Abbott and the state and federal governments, along with any rules, memoranda, or guidance provided by HCFA/CMS concerning the calculation of AMP; and (iv) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

31. Whether Defendant has ever provided AMPs or any other pricing information (such as AWP, WAC) to the State of Wisconsin (apart from providing them pursuant to the State's discovery requests in this case), and the circumstances surrounding any such event.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “provided,” “other pricing information,” and “the circumstances surrounding any such event;” and (ii) seeks information that Plaintiff already has in its possession.

32. Defendant's knowledge, understanding, and belief regarding the confidentiality provisions of the Medicaid Rebate statute, 42 U.S.C. 1396r, as they pertain to AMP.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “confidentiality provisions” and “pertain to AMP;” (ii) is not reasonably calculated to lead to the discovery of relevant or admissible evidence to the extent it seeks opinion rather than factual testimony; (iii) fails to specify a time period and the statute regarding Medicaid rebates has changed over time, including the provisions regarding confidentiality of AMP; (iv) the phrase “Medicaid Rebate statute, 42 U.S.C. 1396r” is unintelligible, thereby rendering this topic incomprehensible; and (v) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

33. Whether Defendant contends that the State of Wisconsin was not prohibited by federal law from determining, and could have determined, the AMP of the Deposition Drugs based on the Unit Rebate Amount for such drugs provided to the State by the federal government pursuant to the Medicaid rebate statute, 42 U.S.C. 1396r, and if so, all bases for such contention.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the term “not prohibited by federal law;” (ii) the phrase “Medicaid Rebate statute, 42 U.S.C. 1396r” is unintelligible, thereby rendering this topic incomprehensible; and (iii) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

34. Defendant's policies and practices concerning the disclosures that providers (retail pharmacies, long-term care pharmacies, mail-order pharmacies, doctors, hospitals, clinics), wholesalers, and pharmacy benefit managers may make of the drug pricing information they receive from Defendant for the Deposition Drugs.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it is vague and ambiguous, particularly with respect to the terms “policies,” “practices,” “concerning,” “disclosures,” “hospitals,” “clinics,” and “receive.”

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

35. Defendant's knowledge, understanding and belief of First DataBank's increase in the AWP for the Targeted Drugs from WAC+20% to WAC+25% in or around 2001-2002 and the action(s), if any, taken by Defendant in response including, but not limited to, any studies, analyses or white papers regarding this issue.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “action(s),” “in response,” “studies,” “analyses,” and “white papers;” (ii) is duplicative of Plaintiff's previous Interrogatories and Requests for Production; and (iii) seeks information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

36. The corporate history and organizational structure of Defendant and any predecessor entities.

**RESPONSE:** In addition to its General Objections, Abbot objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the term “corporate history,” “organizational structure,” and “any predecessor entities;” (ii) is not limited to the scope of this lawsuit; and (iii) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

37. Direct communications between Defendant (or Defendant's counsel or representatives) and the State of Wisconsin Attorney General's Office and/or the State of Wisconsin Medicaid agency.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “direct communication” and “Defendant’s counsel or representatives;” (ii) it is not limited to the scope of this lawsuit; (iii) seeks communications over an undefined period of time and involving non-specified persons; and (iv) seeks information that Plaintiff already has in its possession.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

38. The nature and type of customers who purchase or distribute Defendant's drugs.

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because: (i) it is vague and ambiguous, particularly with respect to the terms “nature,” “type,”

“customers,” “purchase,” and “distribute;” and (ii) seeks information unknown to Abbott to the extent it refers to transactions to which Abbott was not a party.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

39. Defendant's use in its marketing or sales of the Deposition Drugs of the difference between a provider's acquisition cost and third-party reimbursement, including but not limited to “return to practice.”

**RESPONSE:** In addition to its General Objections, Abbott objects to this area of inquiry because it is vague and ambiguous, particularly with respect to the terms “use,” “marketing,” “sales,” “provider’s acquisition cost,” “third-party reimbursement,” and “return to practice,” and assumes matters for which there is no support.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

40. Identification of the existence, location and format of all hard copy and electronic documents, data, and information relating to the subjects identified in paragraphs 1-39 above.

**RESPONSE:** In addition to its General Objections, Abbott incorporates all of its objections to topic Nos. 1-39 herein. In addition, Abbott objects to this area of inquiry because it: (i) is vague and ambiguous, particularly with respect to the terms “all hard cop[ies],” “electronic documents,” and “data;” (ii) seeks information that Plaintiff already has in its possession; (iii) is duplicative of Plaintiff’s previous Interrogatories and Requests for Production; and (iv) seeks

information that is protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege.

Subject to and without waiving the foregoing General and Specific Objections, Abbott states that it will produce a witness generally knowledgeable about the subject matter of this topic, to the extent Abbott has not already provided testimony on this topic in other AWP-related matters.

UNNUMBERED PARAGRAPH following topic No. 40: The designated deponents shall bring with them all evidence or information showing that any of the Deposition Drugs was sold at a price equal or greater than the published AWP from 1993 to the present.

**RESPONSE:** In addition to its General Objections, Abbott objects to this request as duplicative and unduly burdensome. Subject to and without waiving its objections, Abbott refers Plaintiff to the sales data that Abbott produced in this case, and the publicly-available AWP information for the Deposition Drugs during the time period requested.

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