

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

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.
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.
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.
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.
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.

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.
15. Defendant's marketing decisions, plans, and strategies, market share research, product launches, and advertising relating to the Deposition Drugs.
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.
17. Defendant's sales strategies, sales staff training, sales meetings, competitive sales research, sales staff evaluations, and sales forecasts for the Deposition Drugs.
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.
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.
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.

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.
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).
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.
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.
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.
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.

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.
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.
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.
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.
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.

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.
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.
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.
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.
36. The corporate history and organizational structure of Defendant and any predecessor entities.
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.
38. The nature and type of customers who purchase or distribute Defendant's drugs.
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."

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.

The designated deponents shall bring with them all evidence or information showing that any of the Deposition Drugs was sold at a price equal to or greater than the published AWP from 1993 to the present.

Dated this 20th day of September, 2007.



One of Plaintiff's Attorneys

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Exhibit A – Deposition Drugs

ALBUTEROL

49502-0105-01
49502-0196-20
49502-0303-17
49502-0333-17

CROMOLYN

49502-0689-02
49502-0689-12

DEY-LUTE

49502-0697-03
49502-0697-60

DUONEB

49502-0672-30
49502-0672-60

EPIPEN

49502-0500-01
49502-0501-01

IPRATROPIUM

49502-0685-03
49502-0685-33
49502-0685-60

SODIUM

49502-0830-03
49502-0830-05
49502-0830-15
49502-0830-50

