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

**AVENTIS PHARMACEUTICALS INC.’S RESPONSES AND OBJECTIONS
TO PLAINTIFF’S FIFTH SET OF REQUESTS FOR PRODUCTION
OF DOCUMENTS TO ALL DEFENDANTS**

Pursuant to Wisconsin Rule of Civil Procedure 804.09, defendant Aventis Pharmaceuticals Inc. (“Aventis”), by its attorneys, provides the following responses to Plaintiff’s Fifth Set of Requests for Production of Documents to All Defendants (“Requests”).

PRELIMINARY STATEMENT

1. By responding to these Requests, Aventis does not waive or intend to waive: (a) any objections as to the competency, relevancy, materiality, privilege, status, or admissibility as evidence, for any purpose, of any documents or information produced in response to these Requests; (b) the right to object on any ground to the use of the documents or information produced in response to these Requests at any deposition, hearing, trial or other proceeding, or to their use in any pleading or submission; or (c) the right to object on any ground at any time to a demand for further responses to these Requests.

2. By responding that it will produce documents responsive to a particular Request, Aventis does not assert that it has responsive documents or that such documents exist, only that it will conduct a reasonable search and produce relevant, responsive, non-privileged

documents on a rolling basis as agreed upon with Plaintiff's counsel, and subject to a binding protective order of confidentiality. No objection made herein, or lack thereof, is an admission by Aventis as to the existence or non-existence of any documents.

3. The objections and responses made herein are based on Aventis's investigation to date of those sources within its control where it reasonably believes responsive documents or information may exist. Aventis reserves the right to amend or supplement these responses in accordance with the applicable rules and court orders.

4. The information and documents supplied herein are for use in this litigation and for no other purposes.

GENERAL OBJECTIONS

Aventis objects generally to Plaintiff's Requests as follows:

1. Aventis objects to Plaintiff's "Definitions" and "Instructions" to the extent Plaintiff intends to expand upon or alter Aventis's obligations under the Wisconsin Rules of Civil Procedure. Aventis will comply with the Wisconsin Rules of Civil Procedure in providing its responses to Plaintiff's Requests.

2. Aventis objects to each Request to the extent that it calls for the identification or production of documents or information not relevant to the issues in this action and not reasonably calculated to lead to the discovery of admissible evidence.

3. Aventis objects to the definition of "Document(s)" on the grounds that it is vague and ambiguous and to the extent that it seeks to impose obligations beyond those imposed by the applicable Wisconsin Rules of Civil Procedure. Aventis further objects to this definition to the extent that it purports to require Aventis to identify or produce documents or data in a particular form or format, to convert documents or data into a particular file format, to produce

documents or data on any particular media, to search for and/or produce or identify documents or data on back-up tapes, to produce any proprietary software, data, programs or databases, to violate any licensing agreement or copyright laws, or to produce data, fields, records, or reports about produced documents or data. The production of any documents or data or the provision of other information by Aventis as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

4. Aventis objects to these Requests to the extent that they seek proprietary, commercially-sensitive, or other confidential information, including, but not limited to, confidential and/or proprietary research, procedures, and processes relating to the pricing of pharmaceuticals, current and past marketing plans and methods, and current and past business planning and financial information. Aventis's production of any document, testimony, or information pursuant to these Requests shall not be construed as a waiver of the confidentiality of any such document or information and shall be subject to the terms of the First Amended Order of Confidentiality entered in this litigation.

5. Aventis objects to Plaintiff's Requests to the extent they seek information that is protected from disclosure by the work product doctrine, the attorney-client, accountant-client, consulting expert, or investigative privileges, any common interest or joint defense agreement, or any other applicable privilege or protection.

6. Aventis objects to Plaintiff's Requests to the extent they call for information not within Aventis's possession, custody or control.

7. Aventis objects to Plaintiff's Requests to the extent they call for information that is confidential, proprietary, and/or a trade secret of a third-party or is protected from disclosure by an agreement with a third-party.

8. Aventis objects to Plaintiff's Requests to the extent they seek disclosure of information that is a matter of public record, is equally available to the Plaintiff, or is already in the possession of the Plaintiff.

9. Aventis objects to the definition of defined period of time to the extent it calls for information or documents created either prior to June 3, 1998 or after June 3, 2004, on the ground that such information is neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Aventis believes that the longest statute of limitations period applicable to Plaintiff's claims began to run six years prior to the date of filing of the Complaint. While Plaintiff may be required to produce documents from an earlier time based on the allegations that they have chosen to plead, Aventis is not similarly obligated.

10. Aventis expressly incorporates the above General Objections into each specific response to Plaintiff's Requests set forth below as if set forth in full therein. A response to Plaintiff's Requests shall not operate as a waiver of any applicable specific or general objection.

RESPONSES TO REQUEST FOR DOCUMENTS

DOCUMENT REQUEST NO.14: All documents relating to lobbying efforts of you, or any individual or entity acting on your behalf (including but not limited to third-party lobbyists or lobbyist organizations such as the Pharmaceutical Research and Manufacturers of America), with regard to:

- (a) the Wisconsin Medicaid program's reimbursement for prescription drugs;
- (b) other state Medicaid programs' reimbursement for prescription drugs; and
- (c) the federal Medicare program's reimbursement for prescription drugs.

Documents sought by this request include, but are not limited to:

- (a) communications with the State of Wisconsin, the Wisconsin Department of Health & Family Services, and the Wisconsin legislature (including any legislative committee or individual state legislator);
- (b) communications with other states, other state Medicaid programs, and other state legislatures (including any legislative committee or individual state legislator);
- (c) internal communications within your company;
- (d) communications between you and external third-party lobbyists or lobbyist organizations such as the Pharmaceutical Research and Manufacturers of America; and
- (e) documents identifying, describing, or relating to the amount of money spent on lobbying efforts regarding these issues.

RESPONSE: Aventis objects to this Request on the ground the phrases “lobbying efforts,” “third-party lobbyists,” “lobbyist organizations,” “external third-party lobbyists,” “program’s reimbursement,” “internal communications,” and “describing...the amount of money” are vague, ambiguous, and undefined. Aventis further objects to this Request on the ground that it is overly broad and unduly burdensome to the extent it seeks documents that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence and that are outside the scope of permissible discovery, in part because this Request is not limited to documents relating to prescription drug pricing and reimbursement in Wisconsin. Aventis also objects to this Request to the extent it seeks the production of documents that are protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving these objections and consistent with its understanding of this Request, Aventis states that it is not now, nor has it ever been, involved in the State’s decisions regarding the methodology used to reimburse healthcare providers for drugs administered to Medicaid beneficiaries. Notwithstanding this fact and without waiving its

objections, Aventis will conduct reasonably diligent searches and produce documents responsive to this Request subject to the terms of the First Amended Order of Confidentiality entered in this case.

DOCUMENT REQUEST NO.15: Documents identifying, describing, or relating to your internal code of conduct or other policy relating to the ethical standards applicable to your employees.

RESPONSE: Aventis objects to this Request on the ground the phrases “internal code of conduct,” “other policy,” and “ethical standard applicable to your employees” are vague, ambiguous and undefined. Aventis further objects on the ground that this Request is overly broad and unduly burdensome to the extent it seeks documents that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence, in part because this Request is not limited to documents relating to prescription drug pricing and reimbursement in Wisconsin. Aventis also objects to this Request to the extent it seeks the production of documents that are protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving these objections and consistent with its understanding of this Request, Aventis states that it will conduct reasonably diligent searches and produce representative employee conduct policies relating to prescription drug pricing, marketing, and contracting, subject to the terms of the First Amended Order of Confidentiality entered in this case.

DOCUMENT REQUEST NO.16: Documents relating to your compliance policy or other policies designed to ensure adherence to applicable statutes, regulations and requirements for pharmaceutical manufacturers in connection with the Medicare and Medicaid programs.

RESPONSE: Aventis objects to this Request on the ground the phrases “compliance policy,” “other policies,” “ensure adherence,” and “applicable statutes, regulations and requirements for pharmaceutical manufacturers in connection with the Medicare and

Medicaid programs” are vague, ambiguous and undefined. Aventis further objects on the ground that this Request is overly broad, unduly burdensome, and unintelligible as written. Aventis also objects to this Request to the extent it seeks the production of documents that are protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving these objections and consistent with its understanding of this Request, Aventis states that it will conduct reasonably diligent searches and produce documents responsive to this Request subject to the terms of the First Amended Order of Confidentiality entered in this case.

DOCUMENT REQUEST NO.17: Documents relating to any policy relating to the use or promotion of, or reference to, the spread of a drug in connection with the sales or marketing of that drug including, but not limited to:

- (a) documents that relate to or describe the policy, including consequences for violation of the policy;
- (b) documents that identify the date that the policy was established and/or became effective;
- (c) documents identifying, describing, or relating to the reason(s) for establishment of the policy;
- (d) documents identifying, describing, or relating to the distribution and dissemination of the policy to your employees;
- (e) documents identifying, describing, or relating to training provided to your employees regarding the policy; and
- (f) documents relating to any actual or potential violations of the policy, including any investigation, determination, and action taken by your company related to any such actual or potential violation.

RESPONSE: Aventis objects to this Request on the ground the phrases “policy relating to the use or promotion of, or reference to, the spread of a drug,” “in connection with the sales or marketing of that drug,” and “potential violations” are vague, ambiguous and undefined. Aventis further objects on the ground that the State’s definition of “spread” for purposes of these

discovery requests differs from the “spread” alleged in its Amended Complaint. Given that fact, this Request seeks documents neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Aventis also objects to this Request to the extent it seeks the production of documents that are protected by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the objections set forth above and consistent with its understanding of this Request, Aventis states that it has identified a core set of documents that relate to its pricing, marketing, sales, and contracting practices, with specific reference to many of the products at issue in this litigation. Aventis will produce a copy of these documents, subject to the terms of the First Amended Order of Confidentiality entered in this case and to the terms of the parties' stipulation concerning the approved uses of these documents.

DOCUMENT REQUEST NO.18: Documents identifying or describing the reimbursement formula for prescription drugs used by the Wisconsin Medicaid Program, including but not limited to its formula for estimating acquisition cost or its use of AWP.

RESPONSE: Aventis objects to this Request on the ground the phrase “its use of AWP” is vague, ambiguous and undefined.

Subject to and without waiving this objection and consistent with its understanding of this Request, Aventis states that it will conduct reasonably diligent searches and produce documents responsive to this Request subject to the terms of the First Amended Order of Confidentiality entered in this case.

DOCUMENT REQUEST NO.19: All documents relating to the National Pharmaceutical Council, including but not limited to the following:

- (a) documents relating to your membership in the National Pharmaceutical Council;
- (b) all correspondence between you and the National Pharmaceutical Council;

- (c) all annual publications of the National Pharmaceutical Council entitled “Pharmaceutical Benefits Under State Medical Assistance Programs.”

RESPONSE: Aventis objects to this Request on the ground that it is overly broad and unduly burdensome to the extent it seeks documents that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence, in part because this Request is not limited to documents relating to prescription drug pricing and reimbursement in Wisconsin. Aventis further objects to the extent this Request seeks public documents that are equally available to the State.

Subject to and without waiving these objections, Aventis states that it will conduct reasonably diligent searches and produce documents responsive to this Request subject to the terms of the First Amended Order of Confidentiality entered in this case.

Dated: July 27, 2007

By: /s/ Joseph G. Matye
Joseph G. Matye, Esq.
Michael L. Koon, Esq.
Tiffany W. Killoren, Esq.
SHOOK, HARDY & BACON, LLP
2555 Grand Boulevard
(816) 474-6550 (office)
(816) 421-5547 (fax)

Stephen P. Hurley, Esq.
State Bar 1015654
Clifford Joe Cavitt, Esq.
State Bar 1038348
HURLEY, BURISH & STANTON, S.C.
10 E. Doty Street, Suite 320
Madison, WI 53703
(608) 257-0945 (Office)
(608) 257-5764 (Fax)

ATTORNEYS FOR DEFENDANT
AVENTIS PHARMACEUTICALS INC.

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of July, 2007, a true and correct copy of Aventis Pharmaceuticals Inc.'s Responses and Objections to Plaintiff's Fifth Set of Requests for Production of Documents to All Defendants was served on counsel of record by Lexis Nexis File & Serve.

AVENTIS PHARMACEUTICALS INC.

/s/ Joseph G. Matye _____
Joseph G. Matye, Esq.
Michael L. Koon, Esq.
Tiffany W. Killoren, Esq.
SHOOK, HARDY & BACON, LLP
2555 Grand Boulevard
(816) 474-6550 (office)
(816) 421-5547 (fax)

Stephen P. Hurley, Esq.
State Bar 1015654
Clifford Joe Cavitt, Esq.
State Bar 1038348
HURLEY, BURISH & STANTON, S.C.
10 E. Doty Street, Suite 320
Madison, WI 53703
(608) 257-0945 (Office)
(608) 257-5764 (Fax)

ATTORNEYS FOR DEFENDANT