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

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**BRISTOL-MYERS SQUIBB COMPANY’S RESPONSES AND OBJECTIONS TO  
PLAINTIFF STATE OF WISCONSIN’S FIFTH SET OF REQUESTS  
FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS**

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Pursuant to Wisconsin Rule of Civil Procedure 804.09, defendant Bristol-Myers Squibb Company (“BMS”), by its attorneys, objects and responds to Plaintiff’s Fifth Set for Requests for Production of Documents to All Defendants (“Requests”) as follows:

**PRELIMINARY STATEMENT**

1. These responses and objections are made solely for the purposes of this action. Each response is subject to all objections as to competence, relevance, materiality, propriety, and admissibility, and to any and all other objections that may be applicable at a trial or other hearing or proceeding, all of which objections and grounds are expressly reserved and may be interposed at the time of trial.
  
2. BMS’s responses and objections shall not be deemed to constitute admissions:
  - a. that any particular document or thing exists, is relevant, non-privileged, or admissible in evidence; or
  - b. that any statement or characterization in the Requests is accurate or complete.

3. BMS's responses are made based upon reasonable and diligent investigation conducted to date. Discovery and investigation in this matter are ongoing and BMS reserves the right to amend its responses and to raise any additional objections it may have in the future. These responses are made based upon the typical or usual interpretation of words contained in the Requests, unless a specific definition or instruction has been provided and/or agreed upon. Notwithstanding any objection set forth herein, and without waiving any such objection, BMS will negotiate with Plaintiff in an effort to reach an agreement regarding the scope of the Requests, and will supplement or amend these objections and responses consistent with those negotiations.

4. BMS's responses to the Requests contain information subject to the Protective Order entered on November 29, 2005 in this matter and must be treated accordingly.

5. BMS's responses are submitted without prejudice to BMS' right to produce evidence of any subsequently discovered facts and to present in any proceeding and at trial any further information and documents obtained during discovery and preparation for trial. BMS reserves its right to provide further responses as additional facts are ascertained.

6. Any statement by BMS contained in these objections and responses that non-privileged documents or information will be produced in response to a specific request does not mean that any such documents or information actually exist, but only that they will be produced to the extent that they exist.

#### **GENERAL OBJECTIONS**

BMS objects generally to the Requests as follows:

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

2. BMS 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 is not reasonably calculated to lead to the discovery of admissible evidence.

3. BMS objects to the definition of “Documents” 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. BMS further objects to this definition to the extent that it purports to require BMS 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 BMS as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

4. BMS objects to the extent that any Request seeks information that is protected from disclosure by the work product doctrine, the attorney-client, accountant-client, consulting expert, or investigative privileges, by any common interest or joint defense agreement, or by any other applicable privilege or protection. BMS agrees to prepare and provide Plaintiff with a listing or log of documents withheld on the grounds of privilege at the conclusion of its final production.

5. BMS objects to each Request to the extent that it calls for production of documents or information not within its possession, custody, or control. In responding to these requests, BMS has undertaken or will undertake a diligent and reasonable search of documents and information within BMS’s current possession, custody, or control.

6. BMS objects to each Request to the extent that it calls for information that is confidential, proprietary, and/or a trade secret of a third party. Any such materials produced will be

subject to the Protective Order entered in this action.

7. BMS objects to each Request to the extent that it seeks 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.

8. BMS expressly incorporates the above General Objections into each specific response to the Requests set forth below as if set forth in full therein. The response to a Request shall not operate as a waiver of any applicable specific or general objection to the Request.

### **RESPONSE TO SPECIFIC REQUESTS**

**DOCUMENT REQUEST NO. 14:** All documents relating to lobbying efforts of you, or any individual or entity action 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:** In addition to its General Objections, which are incorporated herein by reference, BMS objects to this Request on the grounds that it is overly broad, unduly burdensome, and the following phrases are vague, ambiguous, and undefined: "lobbying efforts," "third-party lobbyists," "lobbyist organizations," and "external third-party lobbyists." BMS further 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 its general and

specific objections, BMS agrees to produce 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), to the extent BMS locates these documents in its possession, custody and control.

**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:** In addition to its General Objections, which are incorporated herein by reference, BMS objects to this Request on the grounds that it is overly broad, unduly burdensome, and the following phrases are vague, ambiguous, and undefined: “internal code of conduct,” “other policy,” and “ethical standards applicable to your employees.” BMS further 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 its general and specific objections, BMS states that it has already produced to Plaintiff the documents in its possession, custody and control that are responsive to this Request.

**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:** In addition to its General Objections, which are incorporated herein by reference, BMS objects to this Request on the grounds that it is overly broad, unduly burdensome, and the following phrases are vague, ambiguous, and undefined: “compliance policy,” “other policies,” and “applicable statutes, regulations and requirements for pharmaceutical manufacturers in connection with the Medicare and Medicaid programs.” BMS further objects to the extent this Request to the extent it seeks the production of documents that are protected by the attorney-client privilege and/or the work product doctrine. Subject to and without waiving its general and specific objections, BMS states that it has produced to the Plaintiff the documents in its possession, custody and control that are responsive to this Request. BMS further states that it will undertake a

reasonable search for additional non-privileged documents potentially responsive to this Request and, to the extent these documents have not been produced, BMS will produce them to Plaintiff.

**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:** In addition to its General Objections, which are incorporated herein by reference, BMS objects to this Request on the grounds that it is overly broad, unduly burdensome, and the following terms are vague, ambiguous, and undefined: “policy relating to the use or promotion of, or reference to, the spread of a drug” and “in connection with the sales or marketing of that drug.” BMS further objects to this Request to the extent it calls for the production of documents that are protected by the attorney-client privilege and/or the work product doctrine. Subject to and without waiving its general and specific objections, BMS states that it has produced to the State all documents in its possession, custody and control that are responsive to this Request.

**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:** In addition to its General Objections, which are incorporated herein by reference, BMS objects to this Request on the grounds that it is overly broad, unduly burdensome, and seeks information already in the possession of the Plaintiff. Subject to and without waiving its

general and specific objections, BMS states that it will produce the publication entitled "Pharmaceutical Benefits Under State Medical Assistance Programs 2005/2006," which was published by the National Pharmaceutical Council, Inc. BMS further states that it will undertake a reasonable search for additional non-privileged documents potentially responsive to this Request in a manner to be negotiated and agreed upon between the parties.

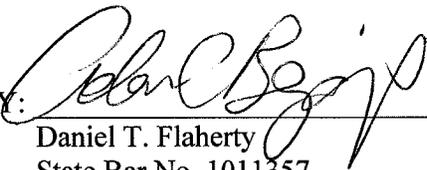
**DOCUMENT REQUEST NO. 19:** All documents relating to the National Pharmaceutical Council, including but not limited to the following:

- (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:** In addition to its General Objections, which are incorporated herein by reference, BMS objects to this Request on the grounds that it is overly broad, unduly burdensome and to the extent it seeks information not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving its general and specific objections, BMS agrees to undertake a reasonable search for non-privileged documents potentially responsive to this Request in a manner to be negotiated and agreed upon between the parties.

Dated: July 27, 2007

GODFREY & KAHN, S.C.

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**Certificate of Service**

I hereby certify that on July 27, 2007 a true and correct copy of the foregoing was served on all counsel of record by Lexis Nexis File & Serve®.

  
Sandhya P. Kawatra