

3. By responding that it will produce documents or information responsive to a particular Request, Baxter does not assert that it has any responsive documents or information in its possession, custody, or control or that such materials exist, only that it will conduct a reasonable search and produce responsive, non-objectionable, non-privileged documents or information in its possession, custody, or control. No objection made herein, or lack thereof, is an admission by Baxter as to the existence or non-existence, or Baxter's possession or lack of possession, of any documents or information.

4. The responses made herein are based on Baxter's investigation to date of those sources within its control where it reasonably believes responsive information may exist. These answers are made based upon the typical or usual interpretation of words contained in Plaintiff's Requests, unless a specific definition or instruction has been provided and/or agreed upon.

5. Baxter's answers to Plaintiff's Requests contain information subject to the Protective Order entered on November 29, 2005 in this matter, and must be treated accordingly.

6. Baxter is searching diligently for responsive information and documents, but the Requests are unreasonably broad, which makes it unduly burdensome, if not impossible, for Baxter to complete any comprehensive collection and review process. Baxter will negotiate with Plaintiff in good faith to reach reasonable limits on the scope of production,

7. The provision of documents or information pursuant to these Requests shall not be construed as a waiver of the confidentiality of any such information.

GENERAL OBJECTIONS

Baxter expressly incorporates all of the General Objections set forth below into the specific objections and responses to each Request. Any specific objections provided below are

made in addition to these General Objections and failure to reiterate a General Objection below does not constitute a waiver of that General Objection or any other objection.

A. GENERAL OBJECTIONS TO PLAINTIFF'S REQUESTS FOR PRODUCTION OF DOCUMENTS

Baxter makes the following General Objections to Plaintiff's Fifth Set of Requests for Production of Documents to All Defendants (collectively, the "Requests"):

1. Baxter objects to the Requests to the extent that they are premature.
2. Baxter objects to the Requests to the extent that they call for the production of documents or information that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence, are overbroad, unduly burdensome, vague, ambiguous, oppressive and/or duplicative. Baxter will not make such documents or information available for inspection.
3. Baxter objects to the Requests to the extent that they demand production of any document or information covered by the attorney-client privilege, work-product doctrine, accountant-client privilege, joint defense/prosecution privilege, consulting expert rule, common-interest doctrine, or any other legally recognized privilege, protection, immunity, or exemption from discovery. To the extent that any such protected documents or information are inadvertently produced in response to the Requests, the disclosure of such documents or information shall not constitute a waiver of Baxter's right to assert the applicability of any privilege or immunity to the documents or information. Any such inadvertently produced documents or information shall be returned to Baxter's counsel immediately upon discovery thereof.
4. Baxter objects to the Requests to the extent that they seek documents or information outside the knowledge, possession, custody, or control of Baxter, its agents, or employees, that are publicly available, that are otherwise equally accessible to Plaintiff, that

have been made available to Plaintiff, or that are more appropriately sought from third parties to whom requests have been or may be directed.

5. Baxter objects to the disclosure, under any circumstance, of trade secret information where the probative value of such information in this litigation is exceeded by the potential harm to Baxter if the information were to fall into the hands of its competitors (including certain co-defendants), and further asserts each and every applicable privilege and rule governing confidentiality of this information to the fullest extent provided by the law.

6. Baxter objects to the Requests to the extent they seek documents or information relating to Baxter's activities other than those which concern the State of Wisconsin, on the grounds that such documents are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence.

7. Baxter objects to the Requests to the extent that they may be construed as calling for the production of confidential documents or information relating to a patient. Baxter will not produce any such documents or information to the extent it is under any obligation to maintain the patient information in confidence. Baxter will not disclose such material unless the patient grants permission to do so.

8. Baxter objects to these Requests to the extent that they seek documents or information that Baxter obtained from third parties and cannot disclose without prior approval of such third parties.

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

10. Baxter objects to the Requests to the extent that they seek documents or information relating to a period of time outside any applicable statute of limitations.

11. Baxter objects to the Requests to the extent they seek documents or information already in the possession, custody, or control of the State of Wisconsin or its agencies or attorneys, or that have already been made available to the State of Wisconsin or its agencies or attorneys.

12. Baxter objects to the Requests to the extent that they seek information not contained in documents that currently exist at Baxter and that would require Baxter to create, compile, or develop new documents.

13. Baxter objects to the Requests to the extent that they seek information or documents that are publicly available.

14. Baxter objects to the Requests to the extent that they purport to impose obligations beyond or inconsistent with those imposed by applicable law, including, but not limited to, the Wisconsin Rules of Civil Procedure. Baxter responds to these Requests, subject to other objections, as required by applicable law.

15. Baxter hereby incorporates by reference, as if fully set forth herein, any objection or reservation of rights made by any co-defendant in this action to the extent such objection or reservation of rights is not inconsistent with Baxter's position in this litigation.

B. GENERAL OBJECTIONS TO PLAINTIFF'S DEFINITIONS AND INSTRUCTIONS

Baxter makes the following General Objections to the Definitions and Instructions set forth in the Requests:

1. Baxter objects to Plaintiff's "Definitions" and "Instructions" in the Requests to the extent Plaintiff seeks to expand upon or alter Baxter's obligations under the

Wisconsin Rules of Civil Procedure. Baxter will comply with the applicable rules of civil procedure in providing its objections and responses to the Requests.

2. Baxter objects to Plaintiff's definitions of "you," "your," and "your company," as set forth in Definition No. 1, to the extent they purport to imply any control by Baxter over any other entity or seek to impose discovery obligations that are broader than, or inconsistent with, Baxter's obligations under the Wisconsin Rules of Civil Procedure. The definitions are overbroad, unduly burdensome, and vague because they seek the production of information not in the control or custody of Baxter, require Baxter to search the files of third parties, and require Baxter to speculate as to the identities of individuals and business entities encompassed within the definitions.

3. Baxter objects to the definitions of "document" and "documents," as set forth in Definition No. 2, to the extent that they seek to impose discovery obligations that are broader than, or inconsistent with, Baxter's obligations under the Wisconsin Rules of Civil Procedure. Baxter will comply with the Wisconsin Rules of Civil Procedure. Baxter further objects to these definitions to the extent that they call for Baxter to search for information that was not generated in the form of written or printed records, or to create or re-create printouts from electronic data compilations, on the grounds that such a request would be unduly burdensome and oppressive. Baxter also objects to these definitions to the extent that they require or seek to require Baxter to: (a) produce documents or data in a particular form or format; (b) convert documents or data into a particular or different file format; (c) produce data fields, records, or reports about produced documents or data; (d) produce documents or data on any particular medium; (e) search for and/or produce any documents or data on back-up tapes; (f) produce any proprietary software, data, programs, or databases; or (g) violate a licensing agreement or copyright laws. The production of any documents or data or the provision of other

information by Baxter as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

RESPONSES AND SPECIFIC OBJECTIONS TO DOCUMENT REQUESTS

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 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:

Baxter objects to this Request on the grounds that it is premature, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Baxter particularly objects to this Request to the extent it seeks information concerning other states' Medicaid programs on the grounds that such information is irrelevant to this action and is

not reasonably calculated to lead to the discovery of admissible evidence. Baxter further objects to this Request to the extent that it seeks information protected by the attorney-client privilege and/or the work-product doctrine. Baxter further objects to this Request to the extent that it seeks information that is publicly available or is already in the possession, custody, or control of the State of Wisconsin or its agencies or attorneys, or that has been made available to the State of Wisconsin or its agencies or attorneys.

Subject to and without waiving any of these objections or its General Objections, Baxter responds that it has already produced or will produce, in a manner to be negotiated and agreed upon between the parties, any non-privileged documents in its possession, custody, or control that are responsive to this Request.

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:

Baxter objects to this Request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Baxter further objects to this Request on the grounds that and the following phrases are vague, ambiguous, and undefined: “internal code of conduct,” “other policy,” and “ethical standards applicable to your employees.”

Subject to and without waiving any of these objections or its General Objections, Baxter responds that it has already produced or will produce, in a manner to be negotiated and agreed upon between the parties, any non-privileged documents in its possession, custody, or 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:

Baxter objects to this Request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Baxter also objects on the grounds that 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.”

Subject to and without waiving any of these objections or its General Objections, Baxter responds that it has already produced or will produce, in a manner to be negotiated and agreed upon between the parties, any non-privileged documents in its possession, custody, or control that are responsive to this Request.

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:

Baxter objects to this Request on the grounds that it is premature, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Baxter further objects to this Request to the extent that it seeks information protected by the attorney-client privilege and/or the work-product doctrine.

Subject to and without waiving any of these objections or its General Objections, Baxter responds that it has already produced or will produce, in a manner to be negotiated and agreed upon between the parties, any non-privileged documents in its possession, custody, or 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:

Baxter objects to this Request on the grounds that it is premature, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Baxter further objects to this Request to the extent that it seeks information that is publicly available or is already in the possession, custody, or control of the State of Wisconsin or its agencies or attorneys, or that has been made available to the State of Wisconsin or its agencies or attorneys.

Subject to and without waiving any of these objections or its General Objections, Baxter responds that it has already produced or will produce, in a manner to be negotiated and agreed upon between the parties, any non-privileged documents in its possession, custody, or control that are responsive to this Request.

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:

Baxter objects to this Request on the grounds that it is premature, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Baxter further objects to this Request on the ground that Baxter is not currently a member of the National Pharmaceutical Council.

Subject to and without waiving any of these objections or its General Objections, Baxter responds that it has already produced or will produce, in a manner to be negotiated and agreed upon between the parties, any non-privileged documents in its possession, custody, or control that are responsive to this Request.

Dated: July 27, 2007

By: /s/ Merle M. Delancey
Merle M. DeLancey, Esq. (*pro hac vice*)
Charles V. Mehler III, Esq. (*pro hac vice*)
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006-5403
Telephone: (202) 420-2200
Facsimile: (202) 420-2201

Bruce A. Schultz, Esq.
Wisconsin State Bar No. 1016100
Coyne, Schultz, Becker & Bauer, S.C.
Suite 1000
150 East Gilman Street
Madison, WI 53703
Telephone: (608) 255-1388
Facsimile: (608) 255-2592
bschult@cnsbb.com

Counsel for Defendant
BAXTER HEALTHCARE CORPORATION

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of Defendant Baxter Healthcare Corporation's Responses and Objections to Plaintiff State of Wisconsin's Fifth Set of Requests for Production of Documents To All Defendants to be served on all counsel of record electronically, via Lexis-Nexis File & Serve, on July 27, 2007.

/s/ Charles V. Mehler III
Charles V. Mehler III