



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.

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 Sixth Set of Requests for Production of Documents to All Defendants (collectively, the "Requests"):

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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 produced to the State of Wisconsin or its agencies or attorneys.

11. 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.

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

13. 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.

14. 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. 20:**

The following documents relating to the Together Rx programs:

- (a) contracts or written agreements with providers (including doctors and retail pharmacies);
- (b) documents identifying or relating to the reimbursement to participating providers (including doctors and retail pharmacies) for the ingredient cost of covered prescription drugs, including but not limited to, any formula for reimbursement based on the average wholesale price (“AWP”) of such drugs;
- (c) documents identifying or relating to the amount of the dispensing fee paid to participating providers (including doctors and retail pharmacies) for covered prescription drugs;
- (d) documents identifying or relating to the eligibility requirements for participation in the Together Rx programs; and
- (e) documents identifying your prescription drugs covered by the Together Rx programs.

### **RESPONSE:**

Subject to and without waiving its General Objections, Baxter responds to this Request by stating that it does not have any documents responsive to this Request because Baxter does not participate in the Together Rx program.

### **DOCUMENT REQUEST NO. 21:**

All documents relating to any program of yours that provides, or is marketed as providing, a discount or savings to consumers for any of your prescription drugs. Examples of such programs are the Novartis Savings Program a/k/a the Novartis Care Plan (Novartis Care Card), Pfizer for Living Program (Pfizer Share Card), Pfizer U Share Prescription Drug Discount Card, and the GlaxoSmithKline Orange Card. This request includes, but is not limited to, the following documents:

- (a) contracts or written agreements with providers (including doctors and retail pharmacies);
- (b) documents identifying or relating to the reimbursement to participating providers (including doctors and retail pharmacies) for the ingredient cost of covered prescription drugs, including but not limited to, any formula for reimbursement based on the average wholesale price (“AWP”) of such drugs;

- (c) documents identifying or relating to the amount of the dispensing fee paid to participating providers (including doctors and retail pharmacies) for covered prescription drugs;
- (d) documents identifying or relating to the eligibility requirements for participation in the program; and
- (e) documents identifying your prescription drugs covered by the program.

**RESPONSE:**

In addition to its General Objections, which are incorporated herein by reference, Baxter objects to this Request on the grounds that it is overbroad and that the following terms or phrases are vague, ambiguous, and/or undefined: “any program of yours that provides, or is marketed as providing,” “a discount or savings,” and “consumers.” Baxter further objects to this Request to the extent it seeks documents relating to programs that “provide, or [are] marketed as providing, a discount or savings to” consumers of Baxter’s products because such documents are neither relevant to the subject matter of this action nor likely 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 already been produced 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 any non-privileged documents in its possession, custody, or control that are responsive to this Request. To the extent that Baxter uncovers any additional documents responsive to this Request, Baxter will supplement this Response accordingly.

Dated: February 13, 2008

By: /s/ Merle M. Delancey  
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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 Sixth 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 February 13, 2008.

/s/ Jared Rodrigues \_\_\_\_\_  
Jared Rodrigues