



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

LINDA LINGLE
GOVERNOR

Mark J. Bennett, Attorney General
Phone: (808) 586-1500
Fax: (808) 586-1239

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HAWAII REACHES \$82 MILLION SETTLEMENT WITH PHARMACEUTICAL COMPANIES

HONOLULU – Drug manufacturers have agreed to pay the State of Hawaii more than \$82 million in settlements to resolve claims relating to the marketing and selling of prescription drugs and the manufacturers' reporting of "average wholesale price."

In April 2006 (and in later amended complaints), the State sued more than 40 pharmaceutical companies (most of which are listed in Attachment 1) in an effort to help stem soaring drug prices and recover inflated costs paid for prescription drugs. The lawsuit alleged that for more than a decade, the drug makers had published inflated prices for prescription drugs – causing the overpayment of millions of dollars in drug costs.

Cash settlement agreements have been reached with almost all manufacturers. (The claims against Hospira were dismissed because Abbott Laboratories, Inc. agreed to take responsibility for its drugs. The claims against TAP and Bayer Corporation were dismissed because a U.S. Department of Justice settlement resolved Hawaii's claims before the State filed suit.)

Under the settlement agreements, the manufacturers will collectively pay the State \$82,654,756.12. Of this amount, 15 percent (approximately \$12,398,213) will go to attorneys' fees, and approximately \$1,500,000 will go to the costs of litigation. (There would have been no payment of attorneys' fees or reimbursement of the costs advanced by the State's lawyers had there been no recovery for the State.)

A substantial portion of the total recovery will go to the federal government because the federal government paid substantial amounts of the drug costs. The precise amount of the federal portion has not yet been determined.

Among the settlements included in the total of more than \$82 million:

- Merck Sharp & Dohme Corp. (formerly known as Merck & Co., Inc.) will pay \$28 million.

- AstraZeneca Pharmaceuticals, LP, AstraZeneca LP, GlaxoSmithKline LLC (formerly known as SmithKline Beecham Corporation dba GlaxoSmithKline), and Novartis Pharmaceuticals Corporation will collectively pay \$10 million.
- Pfizer, Inc. and Pharmacia Corporation will collectively pay \$8.2 million.
- Teva Pharmaceuticals USA, Inc., Barr Laboratories, Inc., Ivax Corporation, Ivax Pharmaceuticals, Inc., and Sicor Pharmaceuticals, Inc. will collectively pay \$6.5 million.
- Johnson & Johnson, Janssen Pharmaceutical Products, LP, Ortho Biotech Products, LP, McNeil-PPC, Inc., and Centocor, Inc. will collectively pay \$5.2 million.

“Manipulation of average wholesale prices cost Hawai`i and the federal government millions of dollars,” Attorney General Mark Bennett said. “We brought this litigation in an effort to recover overcharges and to restore transparency and fairness. We are pleased that we were able to achieve what we believe is a fair resolution. This lawsuit, however, may be only the first phase in the State’s litigation efforts to recover prescription drug overcharges.”

Background

The State pays all prescription drug costs for Medicaid patients. In Hawai`i, the cost of prescription drugs in the Medicaid program soared from \$45 million in 1999 to \$117 million in 2004, an increase of 160 percent.

Drug companies sell drugs to health care providers such as pharmacies, physicians, hospitals, and long-term care facilities that dispense drugs. Hawai`i’s Medicaid Fee-For-Service program reimburses the providers based on an estimate of the provider’s acquisition cost of the drug. Hawai`i and most other states use the average wholesale price reported by the drug’s manufacturer to estimate the acquisition cost.

The average wholesale price for a drug is determined by the drug’s manufacturer and is a significant factor in determining the amount of money that Medicaid will pay for a drug. False average wholesale price reporting has the effect of increasing the profitability of an individual drug for the provider and stimulates the demand for that drug, resulting in more sales for the drug company. Drug companies profit from inflated average wholesale prices by increasing the quantity of drugs they sell to providers. Inflated or false average wholesale prices can result in taxpayers, through Medicaid, paying more for pharmaceutical products than they should.

Investigation by the State of Hawai`i, other state attorneys general, and the U.S. Department of Justice revealed that the reported average wholesale price frequently had little relationship to the actual price paid for the drug, and that inflated or false average wholesale prices were widespread in the prescription drug industry.

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For more information, contact:

Mark J. Bennett
Attorney General
(808) 586-1282

Bridget Holthus
Special Assistant
(808) 586-1284
bridget.holthus@hawaii.gov
www.hawaii.gov/ag

Attachment 1

Abbott Laboratories, Inc.
Alpharma USPD, Inc.
Apothecon, Inc.
AstraZeneca Pharmaceuticals LP, AstraZeneca LP
Aventis Pharmaceuticals, Inc.
Aventis Behring LLC n/k/a/ ZLB Behring LLC
Barr Laboratories, Inc.
Baxter Healthcare Corporation
Ben Venue Laboratories, Inc.
Boehringer Ingelheim Pharmaceuticals, Inc.
Boehringer Ingelheim Roxane, Inc. f/k/a Roxane Laboratories, Inc.
Bristol-Myers Squibb Co.
Centocor, Inc.
Dey, Inc.
Forest Pharmaceuticals, Inc.
SmithKlineBeecham Corporation d/b/a GlaxoSmithKline
Hoffman-LaRoche, Inc.
Ivax Corporation
Ivax Pharmaceuticals, Inc.
Janssen, LP f/k/a/ Janssen Pharmaceutica, LP
Johnson & Johnson, Inc.
McNeil-PPC, Inc.
Merck & Co., Inc.
Mylan Laboratories, Inc.
Mylan Pharmaceuticals, Inc.
Novartis Pharmaceuticals Corporation
Ortho Biotech Products, LP
Par Pharmaceutical Cos., Inc.
Pfizer, Inc.
Pharmacia Corporation
Purepac Pharmaceutical Co.
Roche Laboratories, Inc.
Sandoz, Inc.
Schering-Plough Corporation
Sicor Pharmaceuticals, Inc. f/k/a Gensia Sicor Pharmaceuticals, Inc.
Teva Pharmaceuticals USA, Inc.
Warrick Pharmaceuticals Corporation
Watson Pharmaceuticals, Inc.
Watson Pharma, Inc., f/k/a/ Schein Pharmaceuticals, Inc.
Watson Laboratories, Inc.