TIMELINE OF LEGAL ACTIONS AGAINST ANTIPSYCHOTIC MANUFACTURERS: ELI LILLY & CO., BRISTOL-MYERS SQUIBB, JANSSEN & ASTRAZENECA

March 2007

Published information shows that 8 states have filed lawsuits against antipsychotic drug manufacturers: Alaska, Louisiana, Mississippi, Montana, New Mexico, Pennsylvania, Texas and West Virginia.

Four more states have subpoenaed Eli Lilly & Co. for documents related to the marketing of its antipsychotic drug Zyprexa: California, Florida, Illinois and Vermont.

Massachusetts and Oregon are also investigating Eli Lilly & Co. over Zyprexa.

2001:

August: At a meeting of the American Psychiatric Association, Dr. Frank J. Ayd, the psychopharmacologist that helped develop neuroleptics in the 1950s and 60s, presented findings of his review of literature for atypical antipsychotics. He determined that there was a "startling" association between initiation of treatment with olanzepine (Zyprexa) and new-onset of diabetes in adolescents.[i]

November: Researchers at the FDA's Center for Drug Evaluation and Dr. P. Maurali Doraisewamy of Duke University confirmed Dr. Ayd's findings. Both found a causal association between Eli Lilly & Co.'s Zyprexa and diabetes—10 times higher than in the general population.[ii]

2003:

April: Officials at Johnson & Johnson announced plans to send letters to U.S. physicians to warn them of the potential increased risk of stroke for elderly patients who take the antipsychotic drug Risperdal. This was similar to that issued to Canadian doctors in October 2002.[iii]

September: The FDA requested the makers of six atypical antipsychotic drugs to add a caution to their labeling language about the potential risk of diabetes and blood sugar abnormalities.[iv]

2004:

January: Eli Lilly & Co. announced it had warned doctors of using Zyprexa among elderly patients with dementia. A letter issued on January 15 warned of increased risks of death and stroke when elderly patients with dementia were prescribed Zyprexa.[v]

March: The U.S. Attorney for **Pennsylvania** began a civil investigation into Eli Lilly & Co.'s marketing and promotional practices of Zyprexa, Prozac and Evista (an osteoporosis medicine).[vi]
April 19: The filing of the first nationwide Zyprexa class action lawsuit was announced, linking the drug to diabetes, hyperglycemia and pancreatitis.[vii]

June: The Australian Therapeutic Goods Administration published an Adverse Drug Reactions Bulletin warning that the newest antipsychotics could increase the risk of diabetes.[viii]

February: The American Diabetes Association, American Psychiatric Association, American Association of Clinical Endocrinologists and the North American Association for the Study of Obesity issued a consensus statement regarding diabetes risk with the use of atypical antipsychotics.[ix]

2005:

January 13: The **Louisiana** Attorney General filed a lawsuit against Eli Lilly & Co. alleging unfair trade practices by fraudulently misrepresenting to doctors and public that Zyprexa was safe and more effective than alternate drugs on the market and promoting off-label use of the drug in children and for non-approved uses. The suit names as well each of Lilly's sales representatives that promoted the drug in Louisiana.[x]

April 11: The FDA issued a Public Health Advisory regarding the use of antipsychotic drugs—Zyprexa, Abilify, Risperdal and Seroquel—in elderly patients with dementia, stating the drugs could increase the risk of death. None of the drugs were approved for the treatment of dementia, and the FDA said it would ask the manufacturers to place a boxed warning in their labeling stating this.[xi]

June: Eli Lilly & Co. agreed to pay $690 million to settle 8,000 claims against the drug maker for diabetic and hyperglycemic side effects. The company later took a $1.07 billion pre-tax charge to pay what has now become 28,500 claims.[xii]

June: The **Florida** Attorney General's Medicaid Fraud Control Unit office subpoenaed Eli Lilly & Co. for documents related to sales and promotion of Zyprexa.[xiii]

October: The U.S. Attorney's office in **Massachusetts** subpoenaed the company's Dow Jones/*Wall Street Journal* financial reports and for documents related to several drugs, including Zyprexa, and on Lilly's relationship with an unnamed long-term care pharmacy. The office of the Pennsylvania U.S. Attorney also began investigating rebate agreements the company entered into with a pharmacy benefit manager concerning several of their drugs, including Prozac and Zyprexa. The investigation included a review of Lilly's pricing practices under Medicaid.[xiv]

November: The office of Pennsylvania U.S. Attorney Patrick Meehan subpoenaed Johnson & Johnson for documents related to the sales and off-label marketing of Risperdal.[xv]

2006:

February: Alaska Attorney General's office filed suit against Eli Lilly & Co. for illegal marketing of Zyprexa for off-label conditions. The suit also alleged that the company knew about the drug's potential diabetic and hyperglycemic side effects and sought reimbursement and penalties.[xvi]

The Alaska Attorney General also subpoenaed AstraZeneca, seeking information about its marketing practices for the antipsychotic Seroquel.[xvii]

February 28: West Virginia Attorney General's office filed a lawsuit against Eli Lilly & Co. alleging the company had committed fraud on the people of the state with its marketing practices involving Zyprexa. The suit alleged, among other things, that Eli Lilly & Co. representatives misled and deceived doctors about the safety of the drug, downplayed the risks and side effects and promoted its use for off-label uses including mood swings and ADHD, thus profiting from the drug's prescription for off-label conditions. The suit seeks damages and the creation of a fund for patients that have developed diabetes and other complications as a result of taking the drug.[xviii]

July 24: Mississippi Attorney General filed a lawsuit against Eli Lilly & Co., alleging improper sales and marketing of Zyprexa. The suit sought to recover money the state had spent to purchase Zyprexa to treat conditions for which the drug was not approved to treat. It also sought reimbursement of monies spent providing health care to certain Medicaid recipients who allegedly suffered injuries or illnesses such as diabetes after taking the drug. The claim suggested damages of $30 million, while the state's claim for diabetes care could be much higher. Civil penalties, punitive damages and litigation costs were also

sought.[xix]

September: The **California** Attorney General subpoenaed Eli Lilly & Co. for documents related to its marketing practices and its efforts to maintain Zyprexa's status on the state's formulary (Medicaid covered pharmaceutical products).

At the same time, the California Attorney General delivered similar subpoenas to Pfizer and Bristol-Myers Squibb regarding their marketing practices of their antipsychotics, Geodon and Abilify, respectively.

California also subpoenaed AstraZeneca, seeking information about its marketing practices for the antipsychotic Seroquel.[xx]

November 27: The **New Mexico** Attorney General filed a lawsuit against Eli Lilly & Co. alleging the company promoted the drug for off-label uses (such as in children and in elderly for dementia, as well as for non-approved indication such as irritability, sleep disturbances and anxiety).[xxi]

December: Bristol-Myers Squibb agreed to pay $499 million to settle a federal investigation into its illegal sales and marketing activities from the late 1990s through 2005 regarding various drugs, including its antipsychotic drug, Abilify. The settlement and separate charges would wipe out Bristol-Myers fourth-quarter profit for 2006, the company said. The U.S. Attorney's office in Boston had first subpoenaed the records of Bristol-Myers in 2003. It was one of a string of large payments the Justice Department has extracted from drug makers. Federal prosecutors had investigated the company's practices that included failing to tell the government about price discounts offered to other major customers. As a result, Medicare and other government health plans that were entitled to the lowest available price had frequently been overcharged. The company faces, among other legal challenges, possible federal criminal-securities fraud charges in connection with a scheme to record as sales products that it paid customers to store in their warehouses. According to a settlement agreement signed in July 2005, those charges will be dropped next summer if Bristol-Myers completes two years without further violations of practices specified in the agreement.[xxii]

December: The **Texas** Attorney General joined a whistleblower lawsuit (Allen Jones, former investigator with the Pennsylvania Office of the Inspector General) against Johnson & Johnson alleging it overstated the benefits and downplayed the adverse side effects of its antipsychotic Risperdal. It further charged that the company and its subsidiaries improperly influenced at least one state mental health program official to ensure that the drug was placed in a preferred position during the development and implementation of the Texas Medication Algorithm Project (a drug company-designed flowchart telling doctors what atypical

psychiatric drugs to prescribe for a mental disorder and in what sequence).[xxiii]

2007:

January: The **Oregon** Attorney General began investigating whether Eli Lilly & Co. illegally promoted the use of Zyprexa that had not been FDA approved.[xxiv]

January 18: Lawyers from the consumer protection division of the **Illinois** Attorney General's office asked Eli Lilly & Co. to hand over its marketing materials, e-mail messages and other documents regarding promotion of Zyprexa.[xxv]

January 19: Investigators from the **Vermont** Attorney General issued an order to Eli Lilly & Co. to produce internal documents regarding its marketing of Zyprexa.[xxvi]

February: In a preliminary annual report, AstraZeneca stated that approximately 10,000 lawsuits against it alleged the company had not adequately warned users about the side effects of Seroquel, which includes severe weight gain and risk of diabetes.[xxvii]

February 26: The **Pennsylvania** Governor's office filed a suit against Eli Lilly & Co., Janssen and AstraZeneca, alleging they had fraudulently marketed their antipsychotic drugs (Zyprexa, Risperdal and Seroquel, respectively) and owed the state for prescription costs and harm to patients.[xxviii]

February 27: The *Canadian Medical Association Journal* published a study, "Risks of death associated with the use of conventional versus atypical antipsychotic drugs among elderly patients," comparing the risk of death associated with the use of older antipsychotic drugs and newer "atypical" antipsychotics in elderly patients. It found that all antipsychotics—both older and newer ones—increased the risk of death in elderly, and "Until further evidence is available, physicians should consider all antipsychotic medications to be equally risky in elderly patients."[xxix]

March 5: U.S. Representative Henry A. Waxman (D-California), chairman of the federal House Committee on Oversight and Government Reform, sent letters to Eli Lilly & Co. and AstraZeneca, requesting information about their marketing of Zyprexa and Seroquel, respectively.[xxx]

March 7: Montana sued Eli Lilly & Co. for marketing Zyprexa for off-label purposes and became the 8th state to sue over antipsychotic drugs. The lawsuit alleged Lilly owes the state for drug costs and the harm patients have suffered from use of the drug and as a result of its marketing the drug (to sedate nursing home patients), and giving kickbacks to doctors.[xxxi]

Additional: Paxil Antidepressant Suit

September 2004: New York Attorney General Eliot Spitzer sued GlaxoSmithKline (GSK), alleging "persistent fraud" in suppressing research showing suicide risk from Paxil to those under 18. The company settled the case in September 2004 for $2.5 million. In the documents made public as a result of this case, it revealed that two out of three GSK placebo-controlled studies (No's: 377 and 701) failed to show that Paxil was more effective than placebo. Combined, studies 329, 377 and 701 also showed the possibility that suicide-related behaviors were approximately two times more likely in the Paxil group than in the placebo group. An internal GSK document from 1998 had concluded that, in light of the mixed efficacy outcomes from study 329 and the entirely negative results of study 377, GSK's "target" was "to effectively manage the dissemination of these data in order to minimize any potential negative commercial impact."[xxxii]

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