



## State of North Carolina

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North Carolina Senate President Pro Tempore Phil Berger  
North Carolina House of Representatives Speaker Thom Tillis  
Co-Chairs, Joint Legislative Commission on Governmental Operations

Senator Harry Brown  
Senator Thom Goolsby  
Representative James L. Boles, Jr.  
Representative N. Leo Daughtry  
Representative Pat B. Hurley  
Representative Shirley B. Randleman  
Co-Chairs, Appropriations Subcommittees on Justice and Public Safety

North Carolina General Assembly  
Raleigh, North Carolina 27601-1096

RE: G.S. §114-2.5; Report on Settlement Agreement for Merck Sharp & Dohme Corp. (Vioxx)

Dear Members:

Section 114-2.5 of the North Carolina General Statutes requires the Attorney General to report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Appropriations Subcommittees on Justice and Public Safety regarding all settlements and court orders which result in more than \$75,000.00 being paid to the State. Pursuant to that statute, I am writing regarding the settlement of claims for Medicaid reimbursement to the state and federal governments in the above-referenced matter. Pursuant to federal law (42 C.F.R. § 433.320) recoveries in these cases are shared on a pro rata basis by the state and federal governments.

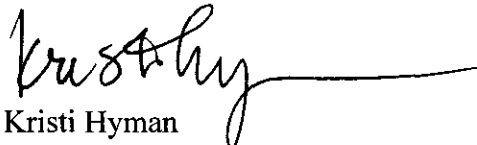
A Settlement Agreement has been executed between Merck Sharp & Dohme Corp. ("Merck") and the State of North Carolina. Merck & Co. was a New Jersey corporation with its principal place of business in Whitehouse Station, New Jersey, and was the operating company for Merck's pharmaceutical business in the United States. As a result of a reverse merger in 2009, Merck & Co., Inc. became a wholly-owned subsidiary of the acquiring company and was

renamed Merck Sharp & Dohme Corp. The acquiring company was renamed Merck & Co., Inc. The new Merck & Co., Inc. is a holding company for Merck Sharp & Dohme Corp. and other corporate entities. Currently, Merck Sharp & Dohme Corp. is the operating company in the United States for the pharmaceutical business formerly conducted by Merck & Co., Inc. Merck developed, distributed, marketed and sold pharmaceutical products in the United States, including drugs sold under the trade name of Vioxx. The settlement resolves allegations that from May 20, 1999 through September 30, 2004, Merck promoted Vioxx for rheumatoid arthritis, an indication for use not approved by the federal Food and Drug Administration ("FDA"). Merck also promoted the cardiovascular safety of Vioxx with certain statements by representatives and promotional speakers in written materials that were inaccurate, misleading and inconsistent with the approved labeling for the drug and also made false representations concerning the safety of Vioxx to state Medicaid agencies.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$19,131,562.93. Of that amount, the federal government will receive \$11,257,481.87 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina Medicaid Program received \$3,451,140.81 as restitution and interest. In addition, pursuant to Article IX, Section 7 of the North Carolina Constitution and G.S. § 115C-457.1, the penalty portion of the settlement in the amount of \$4,230,512.61 will be paid to the Civil Penalty Forfeiture Fund for the support of North Carolina public schools. Pursuant to G.S. § 115C-457.2 and G.S. § 108A-70.12(b)(3), the North Carolina Department of Justice will receive \$192,427.64 for investigative costs and costs of collection.

We will be happy to respond to any questions you may have regarding this report.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kristi Hyman", followed by a long horizontal line extending to the right.

Kristi Hyman  
Chief of Staff

KH:ng

cc: Kristine Leggett, NCGA Fiscal Research Division  
Nels Roseland, NCDOJ, Deputy Chief of Staff