

**PRESS RELEASE**

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**NEVADA ATTORNEY GENERAL JOINS SUIT ALLEGING MERCK  
OVERCHARGED TAXPAYERS FOR VIOXX AND ZOCOR**

The Nevada Attorney General's office has joined a whistle blower suit accusing Merck of overcharging Nevada's Medicaid program for two of its biggest selling drugs while giving immense discounts to private hospitals. The suit charges Merck deliberately concealed that it gave discounts of up to 92% to select hospitals in Nevada and throughout the country to avoid giving similar discounts for Zocor and Vioxx to the Medicaid program in Nevada and other states.

The suit, brought by a former Merck district sales manager, charges that Merck ignored a federal law requiring it to disclose these discounts. The law—a part of the Medicaid Rebate Act—requires drug companies to report the best price it sells a drug at to ensure that state Medicaid programs get the benefits of the same discounts. By concealing these discounted “best prices”, the whistleblower and the State of Nevada alleges Merck overcharged the Nevada Medicaid program in the millions of dollars since at least 1999.

With Merck's leading heart medicine and pain medicine facing stiff competition from other drug companies, Merck allegedly responded with a series of illegal marketing strategies to preserve or increase its market share for these widely used drugs. The lawsuit further charges that "Merck gave targeted hospitals tremendous incentives, in the form of steep discounts, to either start patients on Vioxx or Zocor, or to switch them to these drugs away from competitors drugs during their hospital stay".

Merck's marketing strategy was to capture the "spillover effect" so that patients would continue taking the drugs when they left the hospital. Because these drugs are used for chronic conditions, patients often continue using them for many years.

Internal Merck documents show that although the discounts were supposedly earmarked for charity care, they were given only to hospitals agreeing to prescribe these drugs to the lion's share of their patients who needed such drugs.

Vioxx, one of the drugs involved in this scheme, received nationwide attention last year when reports revealed that Merck had withheld evidence suggesting that it had caused thousands of heart attacks.

Along with Zocor, Vioxx was one of Merck's most successful drugs. In 2003 Zocor had \$5.69 billion in sales. Vioxx had \$2.61 billion.

The whistleblower's suit was brought under the Nevada False Claims Act, which imposes treble damages and fines of up to \$10,000 for each false claim Merck submitted. The whistleblower is represented by Steven H. Cohen and Mark A. Kleiman. Kleiman and Cohen specialize in representing whistleblowers who report illegal activity to the federal and state authorities

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