



MONTANA DEPARTMENT OF JUSTICE · ATTORNEY GENERAL STEVE BULLOCK

**ATTORNEY GENERAL STEVE BULLOCK
STATE OF MONTANA**

FOR RELEASE: February 25, 2010

CONTACT: Kevin O'Brien, 444-0582 or Judy Beck, 444-5774

Bullock, Community Leaders Announce Creation of Montana Mental Health Trust

Trust funded by \$13M settlement

HELENA – Joined by leaders from the mental health and law enforcement communities, Attorney General Steve Bullock announced Thursday that he has settled a lawsuit with a major pharmaceutical company that will provide millions of dollars for mental health services and programs in the State of Montana.

In 2007, the Attorney General's office, on behalf of the citizens of Montana, filed suit against Eli Lilly, the manufacturer of Zyprexa. The drug was approved for treating bipolar disorder and schizophrenia, but the Attorney General alleged that Lilly had marketed and sold Zyprexa for unapproved, inappropriate and often dangerous uses and failed to warn physicians and consumers of these dangers.

This week, Bullock and the pharmaceutical giant agreed to settle the lawsuit for \$13 million.

Bullock unveiled the Montana Mental Health Trust, which is funded by this historic settlement. In keeping with the intent of the lawsuit, the Trust will use the funds to benefit the mentally ill in Montana.

"The Montana Mental Health Trust has the ability and the potential to do an amazing amount of good for those who are among the most vulnerable members of our society and who often suffer the most, individuals with mental illnesses," said Bullock. "This settlement comes at a time when the mental health community is most in need."

In announcing the Trust, Bullock was joined by former Supreme Court Justice John Warner, Ravalli County Attorney George Corn, Sweetgrass County Sheriff Dan Tronrud and Dr. Gary Mihelish of the Montana affiliate of the National Alliance on Mental Illness.

Bullock appointed Warner, who retired from the state's highest court on the first of this year, to head the Mental Health Trust.

"I am honored to be appointed as Trustee. As a trial court judge and Supreme Court Justice, I have had an up close view of issues confronting those with mental illness, their families and communities," said Warner. "I am committed to making sure these funds will be used to address these important mental health issues, and I look forward to working with an outstanding advisory committee in deciding how best to put these funds to work."

Warner will appoint a Trust Committee with experience in the mental health field to advise him in the distribution of funds from the Montana Mental Health Trust. The Trust will fund crisis intervention services, training and education for law enforcement and health care providers, funding for patients transitioning to independent living environments, children's mental health programs, peer-to-peer services and other programs.

The Trust, which will receive over \$9.5 million from the settlement, can fund both private and public entities.

The settlement will also reimburse the Department of Public Health and Human Services \$616,474 for money spent through the Montana Medicaid Program purchasing Zyprexa for off-label uses.

More information about the Zyprexa Lawsuit and Settlement is available in a [fact sheet \(PDF\)](#).

#

WHAT IS ZYPREXA?

Zyprexa is an antipsychotic medication manufactured by the pharmaceutical company Eli Lilly. It was approved by the Food and Drug Administration in 1996 for the treatment of schizophrenia and by 2004 was also approved to treat bipolar disorder.

In 2003, Zyprexa was the seventh largest selling drug in this country. By 2004, annual sales of Zyprexa exceeded \$4.4 billion and the drug had been prescribed to over 12 million people worldwide.

WHAT WERE THE PROBLEMS WITH IT?

It has been alleged that Eli Lilly marketed and sold Zyprexa for unapproved, off-label uses – including use in patients with Alzheimer's, dementia, autism and depression, and for treating juvenile patients.

It has also been alleged that Eli Lilly knew that Zyprexa put patients at risk for developing severe and harmful health conditions but failed to warn physicians and consumers of these serious dangers. The health risks that Zyprexa users unknowingly faced included hyperglycemia, significant weight gain, diabetes, pancreatitis, cardiac problems and death.

WHAT DID MONTANA DO?

On behalf of the citizens of our state, Montana's Attorney General filed suit against Eli Lilly in March 2007.

The suit asserted that even years after Eli Lilly's medical experts were internally questioning the safety of Zyprexa, the company instructed its employees and representatives to minimize and misrepresent the dangers of the drug. The company worried that public knowledge of the risks associated with Zyprexa would hinder sales of what had become – for the company – a tremendously profitable drug.

It was also alleged that Eli Lilly made a deliberate effort to promote the prescription of Zyprexa for off-label uses, which is strictly prohibited by law. The company created a 280-person sales team whose sole function was to push the prescription of Zyprexa for unapproved uses – particularly for Long Term Care facilities that used the drug to assist in the management of elderly patients. The company also encouraged and authorized the unlawful payment of illegal kickbacks to doctors in order to continue generating Zyprexa sales.

The lawsuit, which was originally filed in District Court in Helena but eventually moved to United States District Court in New York, alleged consumer protection violations and Medicaid fraud.

WHAT IS THE SETTLEMENT?

In February 2010, Montana entered into an agreement with Eli Lilly to settle the lawsuit for \$13 million.

Beyond the monetary payments, as part of the settlement, Eli Lilly also agrees to business reforms to prevent false, misleading or deceptive advertising and promotions. By settling the lawsuit, the company admits no wrongdoing.

WHAT IS BEING DONE WITH THE SETTLEMENT MONEY?

As part of the agreement Eli Lilly and Montana's Attorney General, the monetary payments of the settlement will finance a Qualified Settlement Fund, similar to the ASARCO Settlement Fund that pays for environmental restoration as part of the Natural Resource Damages program. The settlement will also pay Montana's attorneys fees and costs and reimburse the state for money spent purchasing Zyprexa through the state's Medicaid program.

The Montana Mental Health Trust will receive over \$9.5 million and use its treasury for the sole purpose of funding mental health services and programs in the State of Montana. The Trust can fund both private and public entities.

The Trust will be run by retired Montana Supreme Court Justice John Warner. As Trustee, Warner will appoint a seven-person Trust Committee to advise him on the distribution of funds made by the Montana Mental Health Trust. The Trust Committee will be made up of representatives with expert knowledge in the mental health field.

The settlement will also reimburse the Department of Public Health and Human Services \$616,474 for money spent through the Montana Medicaid Program purchasing Zyprexa for off-label uses.