



Shakedown?

August 08, 2007

Epilepsy Drug Lobby Gave Lawmakers Fits

• Industry- Funded Non-Profit Pushed To Limit Generic Substitutes.

Facing huge revenue losses as a result of expiring patents for anti-seizure pills, drug makers teamed up with the industry-funded Epilepsy Foundation to press states to suppress generic-drug competition, the pre-Murdoch *Wall Street Journal* recently reported.¹

The Maryland-based Epilepsy Foundation argues that some patients have suffered relapse seizures after switching to generic versions of name-brand drugs. The FDA says there is no meaningful difference between the branded and copycat drugs. Stymied at the federal level, the foundation and the drug industry have lobbied many states for measures that would curtail generic substitutes in epilepsy prescriptions.

The *Journal* reported that when the foundation's San Antonio and Houston chapters² decided to make such a lobby push in Austin, Abbott Laboratories agreed to fund their efforts. Abbott faces a patent expiration next year on its \$770-million-a-year seizure drug Depakote.

Last year five Texas lobbyists reported that the two Epilepsy Foundation chapters—which had not reported a single lobby contract over the preceding decade—paid them up to \$410,000. By the close of this year's legislative session, seven lobbyists reported Epilepsy Foundation contracts worth up to \$430,000. These lobbyists included ex-lawmaker Jaime Capelo and former Texas Health and Human Services Commissioner Don Gilbert.

Epilepsy Patent Time Bombs Ticking Away in the Lobby

Drug Used for Seizures	Vendor	2006 U.S. Sales (in Millions)	Max. Value of '07 TX Lobby Contracts	No. of '07 TX Lobby Contracts	Year(s) Patent Expires For Some Uses
Lamictal	GlaxoSmithKline	\$1,684	\$490,000	9	2008
Topamax	Johnson & Johnson	\$1,825	\$300,000	2	2008
Lyrica	Pfizer	\$728	\$275,000	3	2013
Depakote	Abbott Labs	\$770	\$150,000	6	2008
Keppra	UCB	\$711	\$0	0	2008; 2009
TOTALS:		\$5,718	\$1,215,000	20	

Source: *Wall Street Journal*, Texas Ethics Commission and FDA.

Texas Epilepsy Foundation Lobby, June 2007

Epilepsy Foundation		Min. Value	Max. Value
Chapter	Lobbyist	of Contract	of Contract
Southeast Texas	Jaime L. Capelo, Jr.	\$50,000	\$100,000
Central & South Texas	*Luis E. Gonzalez	\$50,000	\$100,000
Central & South Texas	*Laura McPartland Matz	\$50,000	\$100,000
Central & South Texas	*Frank R. Santos	\$50,000	\$100,000
Central & South Texas	*Marsha Catron	\$0	\$10,000
Central & South Texas	*Nelda J. Cruz	\$0	\$10,000
Southeast Texas	Don A. Gilbert	\$0	\$10,000
TOTALS:		\$200,000	\$430,000

*Lobbyist with firm Santos Alliances.

Sindi Roasales, who heads the San Antonio-based Epilepsy Foundation of Central & South Texas confirmed that Abbott was one source of her group's funding. "We don't focus on the fact that some money came from Abbott," she said. "If you look at the numbers of people involved, it's not like Abbott was leading this. The Epilepsy Foundation was leading it." Rosales said that her group's 2007 lobby contract with the Santos Alliances firm was worth between \$50,000 to \$100,000. This suggests that the firm's lobbyists made duplicate disclosures of the same lobby income.

Senator Kyle Janek, a Houston anesthesiologist, agreed to introduce the Epilepsy Foundation's agenda. Janek's SB 409 would prohibit pharmacists from substituting generic for brand-name seizure drugs without documenting the prescribing doctor's written consent. This bill and an identical one by Rep. Dan Gattis of Georgetown (HB1806) also would restrict less-common switches from generic to brand drugs.

The fact that Texas doctors already can block pharmacies from dispensing generic substitutes simply by writing "brand medically necessary" on prescriptions presented a major hurdle to the bill. SB 409 reverses this system, requiring pharmacies to document a doctor's approval of any epilepsy-drug substitutions. Such a burden would discourage pharmacies from using cheaper, generic drugs resulting in a major windfall for brand-name drug companies.

But name-brand drug makers did not testify. Instead doctors, patients and other Epilepsy Foundation representatives put a more-sympathetic face on the issue at a March 2007 hearing of the Senate Health and Human Services Committee.

Generic drug makers, pharmacies and HMOs opposed the bill at the hearing. Sparks flew when Ron

Hartmann, a lobbyist for the generic drug maker Sandoz, Inc., testified that the bill would better protect "the market share of a few brand-name drugs" than epilepsy patients. The bill's sponsor shot back that if Hartmann stopped impugning his motivations, then Senator Janek would not call Hartmann a "high-priced shill." The resulting apology and truce left competing "shill" accusations hanging in the air.

A complication for Senator Janek is that he introduced this bill on behalf of the Epilepsy Foundation's Houston chapter, which failed to mention its corporate sponsorship. Senator Janek told *Lobby Watch* that he was unaware of the foundation's industry funding. Asked if she would handle disclosure differently next time, Rosales said, "I would not have done anything different" except perhaps "starting earlier."

Senator Janek said he was aware that his campaign received industry support. But he cited other motivations for carrying the bill that triggered an industry catfight. "I default to doctors and patients on this issue," he said. Senator Janek received \$10,500 in the 2006 election cycle from PACs of four major epilepsy drug makers. This support was up 40 percent from what these PACs gave him in 2004. These same PACs contributed \$6,500 to House sponsor Dan Gattis in 2006—quadrupling what they gave him in 2004.

Who Sponsored the Sponsors?

Epilepsy Drug Company PAC	'06 Donations To Sen. Janek	'06 Donations To Rep. Gattis
Pfizer	\$5,000	\$2,500
GlaxoSmithKline	\$3,500	\$2,000
Abbott Laboratories	\$1,500	\$1,000
Johnson & Johnson	\$500	\$1,000
TOTALS:	\$10,500	\$6,500

On the other side, it is unclear just how high a priced “shill” Sandoz lobbyist Ron Hartmann might be. Hartmann did not register as a Texas lobbyist. His filing in his home state of Colorado oddly reports that he received \$85 in lobby income in the first half of 2007 and no lobby income in 2006. Yet he somehow managed to contribute \$545 to Democratic candidates and committees in Colorado and Washington that year.

Such a lobby income would be remarkable for the government affairs director of one of the largest generic drug producers in the nation. Sandoz, a unit of Swiss-

based Novartis, reported \$1.7 billion in sales in the second quarter of 2007. Novartis paid three registered Texas lobbyists a total of up to \$135,000 this session.

Novartis’ Texas Lobby, June 2007

Lobbyist	Min. Value of Contract	Max. Value of Contract
Carl S. Richie	\$50,000	\$100,000
Donald Stevens, Jr.	\$10,000	\$25,000
Jessica Akard	\$0	\$10,000
TOTALS:	\$60,000	\$135,000

Name-Brand Epilepsy Drug Makers In Texas’ Lobby, June 2007

Abbott Laboratories

Lobbyist	Min. Value of Contract	Max. Value of Contract
Yvonne Barton	\$50,000	\$100,000
Shannon Lea Swan	\$0	\$10,000
Jay W. Propes	\$0	\$10,000
Galt Graydon	\$0	\$10,000
Machree Garrett Gibson	\$0	\$10,000
Jay P. Brown	\$0	\$10,000
TOTALS:	\$50,000	\$150,000

GlaxoSmithKline

Lobbyist	Min. Value of Contract	Max. Value of Contract
Gaspar Laca	\$100,000	\$150,000
Erica M. Brumleve	\$100,000	\$150,000
Myra Leo	\$25,000	\$50,000
Victoria C. Ford	\$25,000	\$50,000
John M. Erskine, Jr.	\$25,000	\$50,000
Marc T. Shivers	\$0	\$10,000
Cynthia M. Ohlenforst	\$0	\$10,000
Sam Megally	\$0	\$10,000
Larry D. McGinnis	\$0	\$10,000
TOTALS:	\$275,000	\$490,000

Pfizer

Lobbyist	Min. Value of Contract	Max. Value of Contract
Robert Jones	\$150,000	\$200,000
Melody B. Chatelle	\$25,000	\$50,000
Neal T. Jones, Jr.	\$10,000	\$25,000
TOTALS:	\$185,000	\$275,000

Johnson & Johnson

Lobbyist	Min. Value of Contract	Max. Value of Contract
Richard Byron Ponder	\$150,000	\$200,000
Frank W. Calhoun	\$50,000	\$100,000
TOTALS:	\$200,000	\$300,000

The Epilepsy Drug Lobby Spent \$5,000 Feeding the Legislature

Lead Lobbyist	Employer	Amount Spent Feeding State Officials & Staff During 2007 Session	Primary Reported Beneficiaries	Company Obesity Drug That Could Help Those Who Overindulged
Yvonne Barton	Abbott	\$2,096	Leg. Staff	Meridia
Robert Jones	Pfizer	\$1,590	Leg. Staff	Slentrol*
Gaspar Laca	GlaxoSmithKline	\$1,314	House Members	Alli
TOTAL:		\$5,000		

*Warning: FDA-approved for dogs only.

Name-brand epilepsy drug companies did not testify on SB 490. Nonetheless top staff lobbyists for three of the companies reported that they spent a total of \$5,000 wining and dining Texas officials and their staff members during the 2007 legislative session.

The Senate Health and Human Services Committee unanimously approved Janek's bill, which passed the full Senate in April. In the House, the Public Health Committee never put the bill to a vote. Some committee members privately expressed concerns that the bill was a handout to name-brand drug makers. ■

The Drug Industry in Texas' Lobby, June 2007

Drug Interest	Min. Value of Contract	Max. Value of Contract	No. of Lobby Contracts
Name-Brand Drugs	\$2,030,000	\$4,065,000	87
Pharmacies	\$855,000	\$1,925,000	56
Generic Drugs	\$130,000	\$375,000	16
TOTALS:	\$3,015,000	\$6,365,000	159

¹ "Industry fights switch to generics for epilepsy," *Wall Street Journal*, July 13, 2007.

² The State of Texas awarded the same two Epilepsy Foundation chapters a total of \$466,104 to provide epilepsy services in fiscal 2008.