



**ATTORNEY GENERAL OF MISSOURI**

**JOSHUA D. HAWLEY**  
ATTORNEY GENERAL

JEFFERSON CITY  
65102

**P.O. Box 899**  
**(573) 751-3321**

IN THE MATTER OF:

*Via Hand Delivery*

Amerisouth Bergen Corporation

CID No. JC-62-17  
October 31, 2017

**CIVIL INVESTIGATIVE DEMAND**

TO: Amerisouth Bergen Corporation  
227 Washington Street  
Conshohocken, PA 19428

The Attorney General of the State of Missouri believes it to be in the public interest that an investigation be made to ascertain whether Amerisouth Bergen Corporation ("Subject") has engaged in or is engaging in any practices declared to be unlawful by § 407.020, RSMo. This investigation will inquire into the activities and representations of Subject in connection with the sale, distribution, and marketing of opioids. The Attorney General has reason to believe that Subject's conduct in the aforementioned areas and others involves deception, fraud, false promise, misrepresentation, unfair practices, and/or the concealment, suppression, or omission of material facts within the scope of the Missouri Merchandising Practices Act.

Please note that materials and information produced pursuant to this civil investigative demand may be disclosed to other state and/or federal law-enforcement agencies pursuant to § 407.060.1, RSMo.

The Attorney General believes that you have information, documentary material, and/or physical evidence relevant to the investigation described above.

**DEFINITIONS**

In this Civil Investigative Demand, the following terms shall have the meanings set forth herein:

1. “You” and “Your” mean Amerisouth Bergen Corporation; Amerisouth Bergen Corporation’s subsidiaries, parent companies, and sister companies; and all agents, representatives, employees, independent contractors, attorneys, and other persons acting or purporting to act on behalf of Amerisouth Bergen Corporation and/or its subsidiaries, parent companies, or sister companies.

2. “Document” includes every “writing,” “recording,” and “photograph” as Federal Rule of Evidence 1001 defines those terms, as well as any “duplicate” of any writing, recording, or photograph. “Document” includes but is not limited to electronic documents, files, and records, including but not limited to emails, voicemails, text messages, calendar appointments, instant messages, MMS messages, SMS messages, iMessages, computer files, spreadsheets, and metadata. The term Document includes every draft of any other material that falls within the definition of Document.

3. “Communication” means any expression, statement, conveyance, or dissemination of any words, thoughts, statements, ideas, or information, regardless of form, format, or kind. “Communication” includes but is not limited to oral or written communications of any kind, such as telephone conversations, discussions, meetings, notes, letters, agreements, emails or other electronic communications, facsimiles, and other forms of written or oral exchange that are recorded in any way, including video recordings, audio recordings, written notes, or otherwise. Any Communication that also falls within the definition of “Document” shall constitute both a Document and a Communication for purposes of this civil investigative demand.

4. With regard to a person, “Identify” means to state with specificity the person’s legal name, aliases, last-known home address, last-known business address, current employer, current job title, all known telephone numbers, and all known email addresses.

5. With regard to a Communication, “Identify” means to state with specificity the date of the Communication; the medium of communication; the location of the Communication; the name(s) and alias(es) of the person(s) who made the Communication; and the name(s) and alias(es) of all persons who were present when the statement was made, who received the Communication, who heard the Communication, or who came to know of the content of the Communication at a later time.

6. “All” and “any” shall each be construed to encompass the meanings of the words “all” and “any.”

7. “Person” means any natural person, corporation, proprietorship, partnership, association, firm, or entity of any kind.

8. “Opioid” means any drug that binds to the opioid receptor in humans.

9. “CSA” means the federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.*

## **DEMAND FOR DOCUMENTS AND INFORMATION**

Pursuant to § 407.030, RSMo, the Attorney General demands that—no later than 10:00 a.m. on December 15, 2017—You produce the following documents and information, to the extent that they are within your possession, custody, and/or control.

Your document production must comply with the Missouri Office of the Attorney General Production Specifications and Data Delivery Standards, a copy of which is attached hereto.

In responding to each Request contained in this civil investigative demand, You should identify—by Bates range, or by file names and locations—which Documents are responsive to each Request.

If You withhold any responsive materials based on an assertion of privilege and/or the work-product doctrine, you must produce a privilege log that provides—for each Document or Communication withheld—sufficient information to permit the Attorney General’s Office to assess the applicability of the privilege and/or the work-product doctrine.

1. Identify every parent company, sister company, and subsidiary of Amerisouth Bergen Corporation.
2. Identify each of Your officers and managers who had any responsibility for ensuring that You comply with the requirements of the CSA and/or any provision of Missouri law.
3. Produce all organizational charts for each of Your divisions or subsidiaries that played any role in ensuring compliance with the CSA or with any provision of Missouri law. This request seeks all organizational charts reflecting the organizational structure of any division or subsidiary from January 1, 2012 to the present.
4. Identify every Opioid that You have transported to or distributed in the State of Missouri at any time between January 1, 2012 and the present.
5. For each month starting with January 2012 and continuing to the present, state the total number of pills, on a drug-by-drug basis, of each Opioid that You transported to or distributed in each county within the State of Missouri.
6. For each month starting with January 2012 and continuing to the present, state the total amount of revenue that You received from the transportation and distribution of each Opioid within the State of Missouri.
7. For each month starting with January 2012 and continuing to the present, state the total amount of profit that You received from the transportation and distribution of each Opioid within the State of Missouri.

8. Produce all Communications between You, on the one hand, and the U.S. Drug Enforcement Administration, on the other hand, that were sent at any time between January 1, 2012 and the present.

9. Produce all materials that you have filed with or produced to the U.S. Drug Enforcement Administration between January 1, 2012 that relate in any way to Opioids or any Opioid.

10. Identify every protocol, policy, procedure, and any other measure that You have taken or implemented since January 1, 2012 to ensure that You comply with the requirements of 21 U.S.C. § 823 and/or 21 CFR 1301.74.

11. Produce all Documents that reflect, document, or otherwise relate to any protocol, policy, procedure, or other measure identified in response to Request 10.

12. Identify the search terms and parameters that You used to identify materials responsive to Request 11 above.

13. Identify every protocol, policy, procedure, and any other measure that You have taken or implemented since January 1, 2012 to ensure that You comply with 20 Mo. CSR 2220-5.030(3)(M)5 and/or 20 Mo. CSR 2220-5.030(3)(M)7 and/or Mo. Rev. Stat. § 195.050.

14. Produce all Documents that reflect, document, or otherwise relate to any protocol, policy, procedure, or other measure identified in response to Request 13.

15. Identify the search terms and parameters that You used to identify materials responsive to Request 14 above.

16. Identify every protocol, policy, procedure, and any other measure that You have taken or implemented since January 1, 2012 to identify potentially suspicious orders of Opioids or of any Opioid.

17. Produce all Documents that reflect, document, or otherwise relate to any protocol, policy, procedure, or other measure identified in response to Request 15.

18. Identify the search terms and parameters that You used to identify materials responsive to Request 17 above.

19. Identify each of your employees, officers, agents, and independent contractors who raised any concerns regarding the legality, safety, and/or propriety of Your distribution of any Opioids or any Opioid.

20. Identify each of your employees, officers, agents, and independent contractors who raised any concerns regarding Your compliance with the CSA and/or any provision of Missouri law.

21. Identify the search terms and parameters that You used to identify information responsive to Requests 19 and 20 above.

22. Produce all Communications between You, on the one hand, and the U.S. Drug Enforcement Administration, on the other hand, that relate in any way to any Opioid or any Opioid.

23. Describe in detail all consulting service, marketing services, and product-awareness services relating to Opioids and/or any Opioid that You provided at any time between January 1, 2012 and the present.

24. Produce all Documents relating to any consulting service, marketing service, and/or product-awareness service identified in response to Request 23 above.

25. Describe in detail all continuing medical education programs relating in any way to Opioids that You provided, that You organized, and/or for which You provided any financial support. This request seeks information only about those continuing medical education programs that occurred between January 1, 2012 and the present, and it seeks information only about those continuing medical education programs that took place within the State of Missouri or were attended by any physician having an office located within the State of Missouri.

26. Produce all Documents relating to any continuing medical education program identified in response to Request 25 above.

The Attorney General's Office may serve additional or subsequent civil investigative demands on you.

Please note that pursuant to § 407.080, RSMo, certain acts done with the intent to avoid, evade, or prevent compliance in whole or in part with any civil investigative constitute a Class A misdemeanor, which is punishable by a fine not to exceed \$1,000 for individuals and \$5,000 for corporations, or by imprisonment for a term of not more than one year, or both a fine and imprisonment.

No extension of the deadline for compliance with this civil investigative demand shall be effective unless it is reflected in a writing executed by an authorized representative of the Attorney General.

Submit the following Certification of Compliance and all responsive documents and information to:

Amanda Holtmeyer  
Missouri Attorney General's Office  
P.O. Box 899  
Jefferson City, Missouri 65102  
Amanda.Holtmeyer@ago.mo.gov



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Michael Martinich-Sauter  
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Deputy Attorney General for Legal Policy  
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Missouri Attorney General's Office  
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In the Matter of:

Amerisouth Bergen Corporation

CID NO. JC-62-17

**CERTIFICATION OF COMPLIANCE**

I/We hereby certify that all documents and information required by Civil Investigative Demand No. JC-62-17 which is in the possession, custody, control, or knowledge of, \_\_\_\_\_ has been submitted to the Missouri Attorney General as directed herein.

Signature \_\_\_\_\_

Title \_\_\_\_\_

Sworn to before me this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_

Notary Public

My Commission Expires:

IN THE STATE OF \_\_\_\_\_ )  
 ) SS  
COUNTY OF \_\_\_\_\_ )

**AFFIDAVIT**

Before me, the undersigned authority, personally appeared, \_\_\_\_\_  
\_\_\_\_\_ who, being by me duly sworn, deposed as follows:

My name is \_\_\_\_\_, I am of sound mind,  
capable of making this affidavit, and personally acquainted with the facts herein stated:

I am the custodian of the records of \_\_\_\_\_.  
Attached hereto are \_\_\_\_\_ pages of records from \_\_\_\_\_  
\_\_\_\_\_.

These \_\_\_\_\_ pages of records are kept by \_\_\_\_\_ in the  
regular course of business, and it was the regular course of business of \_\_\_\_\_  
for an employee or representative of \_\_\_\_\_ with knowledge of  
the act, event, condition, opinion, or diagnosis recorded to make the record or to transmit  
information thereof to be included in such record; and the record was made at or near the  
time of the act, event, condition, opinion or diagnosis. The records attached hereto are the  
original or exact duplicates of the original.

Affiant

In witness whereof, I have hereunto subscribed my name and affixed my official  
seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[SEAL]

Notary Public

My Commission Expires: \_\_\_\_\_