



June 30, 2005

**Aerogen, Inc.
2071 Stierlin Road, Suite 100
Mountain View, CA 94043**

RE: SB-1765 Annual Compliance Declaration

Aerogen Incorporated hereby declares that it has adopted a Comprehensive Compliance Program as mandated by section 119400 et seq. of the Health and Safety Code of the State of California.

Questions regarding our policy and compliance should be directed to **Ms. Nancy Isaac** at **650.864.7493**. A copy of the compliance program and declaration are available on the company website **www.aerogen.com**.

Signed:

A handwritten signature in black ink, appearing to read "John C. Hodgman", is written over a large, stylized circular scribble.

**John C. Hodgman
CEO and President**

Comprehensive Compliance Program
As Mandated by California
Health and Safety Code §§119400 - 119402

Aerogen, Inc.
now Nektar Therapeutics

2071 Stierlin Court, Suite 100
Mountain View, CA 94043

June 2005

Compliance Officer
Nancy Isaac
650.864.7493

Introduction

In 2004 the California Legislature passed SB-1765, the “fair drug marketing bill”. It was signed into law by the Governor and became effective on July 1, 2005.

The bill amended the Health and Safety Code by adding sections 119400 to 119402. The focus of the bill is to ensure that healthcare products companies that do business in California maintain the highest ethical standards in their interactions with healthcare professionals.

Policy

It is the policy of Aerogen that we will comply with the provisions of California Health & Safety Code §§119400 – 119402. As part of this policy, we will maintain the highest ethical standards in all our interactions with healthcare professionals.

Ethical relationships with healthcare professionals are critical to our mission of helping patients by developing and marketing new medicines and delivery systems. An important part of achieving this mission is ensuring that healthcare professionals have the latest, most accurate information available regarding prescription medicines and delivery systems, which play an ever-increasing role in patient healthcare. This document focuses on our interactions with healthcare professionals that relate to the marketing of our products.

Effective marketing of medicines and delivery systems ensures that patients have access to the products they need and that the products are used correctly for maximum patient benefit. Our relationships with healthcare professionals are critical to achieving these goals because they enable us to:

- Inform healthcare professionals about the benefits and risks of our products.
- Provide scientific and educational information.

- Support medical research and education.
- Obtain feedback and advice about our products through consultation with medical experts.

In interacting with the medical community, we are committed to following the highest ethical standards as well as all legal requirements. We are also concerned that our interactions with healthcare professionals not be perceived as inappropriate by patients or the public at large. This code of conduct and its accompanying policy is to reinforce our intention that our interactions with healthcare professionals are to benefit patients and to enhance the practice of medicine. The code of conduct is based on the principal that a healthcare professional's care of patients should be based, and should be perceived as being based, solely on each patient's medical needs and the healthcare professional's medical knowledge and experience. It is modeled on the industry code of conduct promulgated by the Pharmaceutical Research and Manufacturers of America (PhRMA) and adopted by PhRMA on July 1, 2002.

Therefore, effective July 1st, 2005, Aerogen, Inc. hereby adopts this Code of Conduct and policy on relationships with healthcare professionals as part of our Comprehensive Compliance Program. This code and policy addresses interactions with respect to marketed products and related pre-launch activities. It does not address relationships with clinical investigators relating to pre-approval studies.

Core Documents:

We hereby adopt the following core documents as the foundation of the Comprehensive Compliance Program:

- OIG: Office of the Inspector General, United States Department of Health and Human Services, "**Compliance Program Guidance for Pharmaceutical Manufacturers**," April 2003. (OIG Compliance Program)

- PhRMA: Pharmaceutical Research and Manufacturers of America, “***Code on Interactions with Health Care Professionals***,” July 1, 2002. (PhRMA Code) <http://www.phrma.org/publications/policy//2004-01-19.391.pdf>

Company Code of Conduct – Interactions with Healthcare Professionals

A key part of the Comprehensive Compliance Program is the Company Code of Conduct – Interactions with Healthcare Professionals (“Code”). The Code is based on the PhRMA Code on Interactions with Healthcare Professionals referenced above.

The Code shall serve as a guide for interactions with healthcare professionals and is not meant to be all-inclusive. Individuals with questions on specific practices should seek the guidance of the Compliance Officer.

1. Basis of Interactions

Our relationships with healthcare professionals are intended to benefit patients and to enhance the practice of medicine. Interactions should be focused on informing healthcare professionals about our products, providing scientific and educational information, and supporting medical research and education.

2. Informational Presentations

Informational presentations and discussions by industry representatives and others speaking on behalf of a company provide valuable scientific and educational benefits. In connection with such presentations or discussions, occasional meals (but no entertainment/recreational events) may be offered so long as they: (a) are modest as judged by local standards; and (b) occur in a venue and manner conducive to informational communication and provide scientific or educational value. Inclusion of a healthcare professional’s spouse or other guests is not appropriate. Offering “take-out” meals or meals to be eaten without a company representative being present (such as “dine & dash” programs) is not appropriate.

3. Third-party Educational or Professional Meetings

Continuing medical education (CME) or other third-party scientific and educational conferences or professional meetings can contribute to the improvement of patient care and therefore, financial support from companies is permissible. Since the giving of any subsidy directly to a healthcare professional by a company may be viewed as an inappropriate cash gift, any financial support should be given to the conference's sponsor which, in turn, can use the money to reduce the overall conference registration fee for all attendees. In addition, when companies underwrite medical conferences or meetings other than their own, responsibility for and control over the selection of content, faculty, educational methods, materials, and venue belongs to the organizers of the conferences or meetings in accordance with their guidelines.

Financial support should not be offered for the costs of travel, lodging, or other personal expenses of non-faculty healthcare professionals attending CME or other third-party scientific or educational conferences or professional meetings, either directly to the individuals attending the conference or indirectly to the conference's sponsor (except as set out in section 6 below). Similarly, funding should not be offered to compensate for the time spent by healthcare professionals attending the conference or meeting.

Financial support for meals or receptions may be provided to the CME sponsors who in turn can provide meals or receptions for all attendees. A company also may provide meals or receptions directly at such events if it complies with the sponsoring organization's guidelines. In either of the above situations, the meals or receptions should be modest and be conducive to discussion among faculty and attendees, and the amount of time at the meals or receptions should be clearly subordinate to the amount of time spent at the educational activities of the meeting.

A conference or meeting shall mean any activity, held at an appropriate location, where (a) the gathering is primarily dedicated, in both time and

effort, to promoting objective scientific and educational activities and discourse (one or more educational presentations(s) should be the highlight of the gathering), and (b) the main incentive for bringing attendees together is to further their knowledge on the topic(s) being presented.

4. Consultants

It is appropriate for consultants who provide services to be offered reasonable compensation for those services and to be offered reimbursement for reasonable travel, lodging, and meal expenses incurred as part of providing those services. Compensation and reimbursement that would be inappropriate in other contexts can be acceptable for bona fide consultants in connection with their consulting arrangements. Token consulting or advisory arrangements should not be used to justify compensating healthcare professionals for their time or their travel, lodging, and other out-of-pocket expenses. The following factors support the existence of a bona fide consulting arrangement (not all factors may be relevant to any particular arrangement):

A written contract specifies the nature of the services to be provided and the basis for payment of those services;

A legitimate need for the services has been clearly identified in advance of requesting the services and entering into arrangements with the prospective consultants;

The criteria for selecting consultants are directly related to the identified purpose and the persons responsible for selecting the consultants have the expertise necessary to evaluate whether the particular healthcare professionals meet those criteria;

The number of healthcare professionals retained is not greater than the number reasonably necessary to achieve the identified purpose;

The retaining company maintains records concerning and makes appropriate use of the services provided by consultants;

The venue and circumstances of any meeting with consultants are conducive to the consulting services and activities related to the services are the primary focus of the meeting, and any social or entertainment events are clearly subordinate in terms of time and emphasis.

It is not appropriate to pay honoraria or travel or lodging expenses to non-faculty and non-consultant attendees at company- sponsored meetings including attendees who participate in interactive sessions.

5. Speaker Training Meetings

It is appropriate for healthcare professionals who participate in programs intended to recruit and train speakers for company sponsored speaker bureaus to be offered reasonable compensation for their time, considering the value of the type of services provided, and to be offered reimbursement for reasonable travel, lodging, and meal expenses, when (1) the participants receive extensive training on the company's drug products and on compliance with FDA regulatory requirements for communications about such products, (2) this training will result in the participants providing a valuable service to the company, and (3) the participants meet the criteria for consultants (as discussed above) .

6. Scholarships and Educational Funds

Financial assistance for scholarships or other educational funds to permit medical students, residents, fellows, and other healthcare professionals in training to attend carefully selected educational conferences may be offered so long as the selection of individuals who will receive the funds is made by the academic or training institution. "Carefully selected educational conferences" are generally defined as the major educational, scientific, or policy-making meetings of national, regional, or specialty medical associations.

7. Educational and Practice-Related Items

Items primarily for the benefit of patients may be offered to healthcare professionals if they are not of substantial value (\$100 or less). Items should not be offered on more than an occasional basis, even if each individual item is appropriate. Providing product samples for patient use is acceptable.

Items of minimal value may be offered if they are primarily associated with a healthcare professional's practice (such as pens, notepads, and similar "reminder" items with company or product logos).

Items intended for the personal benefit of healthcare professionals (such as floral arrangements, artwork, music CDs or tickets to a sporting event) should not be offered.

Payments in cash or cash equivalents (such as gift certificates) should not be offered to healthcare professionals either directly or indirectly, except as compensation for bona fide services (as described in parts 4 and 5). Cash or equivalent payments of any kind create a potential appearance of impropriety or conflict of interest.

8. Independence and Decision Making

No grants, scholarships, subsidies, support, consulting contracts, or educational or practice related items should be provided or offered to a healthcare professional in exchange for prescribing products or for a commitment to continue prescribing products. Nothing should be offered or provided in a manner or on conditions that would interfere with the independence of a healthcare professional's prescribing practices.

9. Adherence to Code

It is the Policy of Aerogen, Inc. to require adherence to this Code by its employees, Consultants and Agents.

Compliance Officer and Task Force

Aerogen, Inc. hereby appoints Ms. Nancy Isaac as the Compliance Officer. Ms. Isaac shall have responsibility for updating this policy and for informing the public in response to inquiries. Ms. Isaac may be reached at 650.864.7493 during normal business hours.

Compliance Committee: The Company plans on convening a task-force to advise and assist the Compliance Officer in addressing specific problem areas or issues.

The Compliance Officer will report directly to the CEO on all matters concerning this program. Furthermore, the Compliance Officer will brief the CEO and Board regarding the implementation of this Policy.

The Compliance Officer shall report on the compliance with this policy to the CEO on at least a semi annual basis. The Compliance Officer will establish additional procedures to accomplish the stated goal of the Company, as necessary.

Employee Training and Education

The Compliance Officer will ensure that all employees who have interactions with healthcare professionals are given copies of this document.

The Compliance Officer will also hold training sessions that will be mandatory for employees during which the program will be explained and questions answered.

Communication

The Compliance Officer has the authority to establish communication programs as they deem necessary to implement this policy. These programs, at a minimum, will include:

Employee suggestion box for questions or to report violations

Email – set up a separate address for reporting violations

The Compliance Officer shall take steps to ensure the confidentiality of the reporting individuals.

Auditing

The Company recognizes that effective auditing is of paramount importance in ensuring compliance with this policy. Therefore, the Compliance Officer will initiate a program of regular audits to ensure compliance with the policy. These audits shall be conducted both internally and by outside consultants. Sufficient resources will be allocated to support the audit effort. The Compliance Officer will establish a schedule of audits and coordinate as necessary.

Enforcement and Corrective Action

The Company will support the Compliance Officer in enforcement of this policy.

If internal or external audits uncover an issue or a confidential communication to the Compliance Officer reports a potential problem area, the Compliance Officer shall promptly conduct an investigation of the problem. It is anticipated that the Compliance Officer shall complete the investigation in a reasonable time and present the results to the CEO of the Company. If the CEO and Compliance Officer decide that the problem warrants further investigation and to recommend corrective action, a Task Force will be formed of senior management to address the problem.

The Task Force shall recommend appropriate corrective action and policy revisions to prevent the issue from occurring in the future. The Task Force will report directly to the CEO and shall conduct its investigation and present recommendations in a reasonable time frame.

Public Access:

Copies of this policy and the annual declaration are available on the company website www.aerogen.com. Copies are also available by calling 1-866-423-7643.

Annual Monetary Limits:

As part of this Comprehensive Compliance Program, Aerogen, Inc. has established an annual limit on the amount of legitimate monetary and other incentives provided to healthcare professionals. The company hereby establishes a limit on gifts or incentives provided to healthcare professionals of \$25 per year.

Updates to the Policy:

This policy will be updated within 6 months of changes made to either of the two core documents listed above.