

September 18, 2009



The Honorable Dianne Feinstein
331 Hart Senate Office Building
Washington, DC 20510

Dear Senator Feinstein:

On behalf of the more than 75 undersigned California-based companies, we are writing to request your assistance in eliminating the proposed tax on medical device and diagnostics products currently being considered by the Senate Finance Committee as part of broader health reform legislation. The proposed tax would have a significant and unfair impact on our industry, a worldwide leader in biomedical innovation and a leading and growing employer in California, during a time of increased economic hardship in the state and nationwide. Indeed, with more medical technology companies, jobs and investment than any other state, the proposed tax will have an inequitable and disproportionately severe impact here in California.

California medical technology companies employ more than 110,000 workers throughout the state – most in small venture capital-backed firms with less than 100 employees. The research and development they conduct – billions of dollars each year -- holds tremendous promise for patients and their families in areas such as diabetes, cancer, cardiovascular disease, pain and wound management, arthritis, sleep disordered breathing and many others. Illustrative of the vibrancy of the sector in California, medical device venture capital investment in the state has seen a dramatic jump recently, increasing from \$1.127 billion in 2005 to \$2.018 billion in 2007.

It is our understanding that the proposed tax would be levied upon manufacturers of Class II and Class III medical device and diagnostics products. Rather than specifying a tax rate, the proposal would assess all manufacturers at a rate, based upon their U.S. sales, necessary to generate \$4 Billion annually beginning in 2010. Recent independent estimates indicate annual domestic sales of these products at approximately \$131 Billion. A domestic market of that size would require a tax rate of roughly 3.1 percent, which could translate into an income tax surcharge of between 10-30 percent depending on the company. Such a rate would dramatically increase our overall effective tax rate, and, in turn constrain resources used for research and development and investment in physical manufacturing capacity.

In short, the tax would jeopardize thousands of high-paying scientific and engineering jobs, precisely the types of jobs we must keep and grow in the United States. Similarly, such a tax, assessed against products ranging from powered breast pumps, contact lenses and blood glucose monitors used for control of diabetes to an artificial heart valve and advanced diagnostic equipment, would in turn increase costs for consumers, physician practices, hospitals, and patients in greatest need of medical care. While on paper it may help balance a Congressional Budget Office scorecard, it will only increase the overall cost of health care in the United States.

There are better ways to reform the system than through taxing the roughly 80,000 products necessary to treat every patient who walks through the doors of a physician's office, hospital, or nursing home. For example, the device and diagnostics industry supports value-based purchasing, preventive health, better care coordination, comparative effectiveness research, and other measures to change the incentives in the health care system to focus on

quality and efficiency. And we look forward to working with you and other Members of the Senate on such reforms.

We would welcome the opportunity to further discuss this issue and its impact on one of California's leading and most innovative industries in person, via phone, as a group, or individually. Please let us know how we can work with you to best focus our efforts to eliminate this unfair proposal from consideration.

Thank you for your attention to this important matter.

Sincerely,

3M
Irvine, Monrovia, Northridge

BioMedical Strategies, LLC
La Jolla, CA

Abbott Medical Optics, Inc.
Santa Ana, CA

Biomerix Corporation
Fremont, CA

Acclarent, Inc.
Menlo Park, CA

Boston Scientific Corporation
Fremont, Mountain View, San Jose, Valencia

Advanced BioHealing
La Jolla

Calibra Medical, Inc.
Redwood City, CA

AEGEA Medical, Inc.
Redwood City, CA

CareFusion Corporation
San Diego

Allergan
Irvine

Cepheid
Sunnyvale

Alure Medical, Inc.
Santa Rosa

Concentric Medical, Inc.
Mountain View, CA

American Medical Systems
San Jose

Conceptus, Inc.
Mountain View, CA

Asthmatx, Inc.
Sunnyvale, CA

Cord Cell Technologies, LLC
Escondido, CA

Avantis Medical Systems
Sunnyvale, CA

Coronis Medical Ventures
Sunnyvale

BD
Oceanside, San Diego, San Jose

Crux Biomedical, Inc.
Menlo Park, CA

Benvenue Medical
Santa Clara, CA

Domain Associates, LLC
San Diego, CA

BioCardia, Inc.
San Carlos, CA

Edwards Lifesciences
Irvine

BioMedical Life Systems, Inc.
Vista

El Camino Hospital – Institute for Innovation
Portola Valley, CA

Epicardial Technologies, Inc.
San Clemente

Exploramed Development, LLC
Mountain View, CA

Fallbrook Engineering, Inc.
Escondido, CA

Gen-Probe Incorporated
San Diego

Genzyme
Los Angeles, Monrovia, Orange, San Diego

Heidelberg Engineering Inc.
Vista

Hiemstra Product Development
San Francisco, CA

Hygeia Medical Group, Inc.
Carlsbad

ImThera Medical, Inc.
San Diego

iRhythm Technologies, Inc.
San Francisco

Johnson & Johnson Family of Companies in
California
Diamond Bar, Irvine, Menlo Park, Milpitas,
Mountain View, Santa Barbara

JR Associates
Reseda, CA

Kinamed, Inc.
Camarillo, CA

Life Technologies Corporation
Carlsbad, Foster City

Medtronic
Goleta, Irvine, Northridge, Santa Ana,
Santa Rosa, Sunnyvale

Mohr Davidow Ventures
Menlo Park

Morgenthaler Ventures
Menlo Park, CA

MyoScience, Inc.
Redwood City, CA

NanoVasc, Inc.
Alameda

Neotract, Inc.
Pleasanton, CA

NeuroPace, Inc.
Mountain View

New Leaf Venture Partners
Menlo Park, CA

Newport Medical Instruments Inc.
Costa Mesa

Novasys Medical, Inc.
Newark

NuVasive, Inc.
San Diego

Paracor Medical Inc.
Sunnyvale, CA

PEAK Surgical, Inc.
Palo Alto

Percutaneous Systems, Inc (PercSys)
Palo Alto

PolyRemedy, Inc.
Mountain View, CA

ProSurgics, Inc.
Cupertino, CA

ProteoGenix, Inc.
Costa Mesa

Representations, LLC
Santa Ynez, CA

Relievent Medsystems, Inc.
Redwood City

ResMed
San Diego

Roche Molecular Systems
Pleasanton

Sakura Finetek U.S.A., Inc.
Torrance

Skyline Ventures
Palo Alto, CA

SpinalKinetics
Sunnyvale, CA

SpinalMotion, Inc.
Mountain View, CA

St. Jude Medical
Irvine, Sylmar, Sunnyvale

Stryker Corporation
San Jose

Synecor, LLC
Portola Valley, CA

The Foundry, LLC
Menlo Park, CA

TherOx, Inc.
Irvine, CA

Three Arch Partners
Portola Valley, CA

Tomken Medical, Inc.
San Francisco, CA

Varian Medical Systems
Palo Alto

Varix Medical Corporation
Sunnyvale

Ventus Medical, Inc.
Belmont

Versant Ventures
San Francisco, CA

Vibryant, Inc.
Redwood City, CA

VisionCare Ophthalmic Technologies
Saratoga, CA

Zimmer/Zimmer Dental
Carlsbad