

April 15, 2008



The Honorable Paul Krekorian
California State Assembly 5135
State Capitol, CA 95814

RE: Assembly Bill 2690 (Krekorian) – CHI Position: Oppose

Dear Assembly Member Krekorian:

On behalf of the California Healthcare Institute (CHI), whose more than 250 members include our state's premier life sciences companies and academic research institutions, I am writing to oppose your measure, AB 2690 – legislation that would eliminate a well-established judicial doctrine called the "Learned Intermediary Doctrine."

Under the learned intermediary doctrine, a drug manufacturer is relieved of the duty to warn each patient who receives the product when the manufacturer properly warns the prescribing physician of the product's dangers. This doctrine is an exception to the general rule in torts that a manufacturer has a duty to warn the user of the risks involved with using a product.

One of the arguments that has been used in this debate to eliminate this widely accepted doctrine is that companies are engaging in direct-to-consumer advertising, furnishing patients with information about prescription products, influencing them to ask their physicians for these products. Ironically, if this legislation becomes law, it may force manufacturers to do even more direct advertising, since manufacturers will be directly responsible for educating patients on the risks of their drugs.

Physicians will always be in the best position to provide appropriate warnings to their patients. Ultimately, patients should always rely on their physician's judgment in choosing an appropriate prescription drug. The doctor-patient relationship is central to medicine, particularly as medicine becomes more technical and choosing the best treatment requires more skill and experience. We believe that if this judicial doctrine were eliminated, patients would have to review complex, confusing, highly technical warnings from manufacturers who would have to communicate with patients directly on the risk of their drugs.

In addition, even manufacturers who do not use direct-to-consumer advertising would have exposure to increased litigation if this bill passes. This bill unjustifiably exposes those manufacturers in the life science industry to increased liability and therefore could potentially increase healthcare costs and jeopardize the development and production of life-saving medicines.

Please contact Sandra Pizarro, Vice President of State Government Affairs at (916) 233-3497 with any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "David Gollaher".

David L. Gollaher, Ph.D.
President & CEO

cc: Chair and Members, Assembly Judiciary Committee
Tom Clark, Consultant, Assembly Judiciary Committee
Mark Redmond, Consultant, Assembly Republican Caucus
Chris Ryan, Deputy Legislative Secretary, Office of Governor Schwarzenegger

WWW.CHI.ORG

HEADQUARTERS 1020 Prospect Street, Suite 310 • La Jolla, CA 92037 • 858.551.6677 • Fax 858.551.6688

SACRAMENTO 1215 K Street, Suite 970 • Sacramento, CA 95814 • 916.233.3497 Fax 916.233.3498

WASHINGTON, D.C. 1608 Rhode Island Avenue, NW • Washington, D.C. 20036 • 202.974.6313 Fax 202.974.6330