

Public Comment before the Connecticut Joint Committee on Public Health
Raised Bill No. 270

Dr. Michael Tarnoff

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Covidien

March 1, 2010

Good morning and thank you for the opportunity to address you today. My name is Dr. Michael Tarnoff. I am a physician and the Chief Medical Officer and Vice President of Medical Affairs at Covidien and also serve as an Adjunct Associate Professor of Surgery at Tufts Medical Center where I still maintain a practice in minimally invasive bariatric surgery. I am here today to express my concerns with Raised Bill No. 270. It is my belief that this legislation, if passed in its current form, would have a chilling impact on the medical industry in Connecticut, as well as on Covidien. As Chief Medical Officer for Covidien's Surgical Devices Global Business Unit in North Haven, I want to convey my belief that this legislation is burdensome and unnecessary. Thus, we are asking you to oppose this bill.

For those of you who may not be familiar with Covidien, we are a global healthcare products company. We manufacture and distribute a diverse range of industry-leading product lines in three business segments: Medical Devices; Pharmaceuticals; and Medical Supplies. Moreover, Covidien's Surgical Education has a history of more than 40 years of advanced medical training and has trained approximately 275,000 surgeons to date.

In addition, Covidien employs approximately 3,400 people in the State of Connecticut. North Haven, Connecticut serves as the global headquarters for its Surgical Devices Group. We continue to actively invest in our businesses here. The products that are manufactured in North Haven are industry-leading technologies that include the latest advancements in medical devices.

Covidien is aligned with Connecticut's desire for the healthcare industry to conduct itself with the utmost integrity. At Covidien, we are committed to the highest level of ethics throughout our Company. Within that context, Covidien has a number of concerns

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regarding Raised Bill No. 270. Specifically, the issues that we have with the bill, as currently drafted, include:

The draft bill requires that companies disclose the nature and purpose of consulting arrangements entered into with Connecticut health care providers, related to product development and research and development projects. As a result, we will be forced to reveal trade secrets that diminish our ability to be successful as a company in Connecticut and worldwide. This would disproportionately hurt the important work that we do here in Connecticut as we are the only medical device company that has a significant presence in Connecticut. Most of our competitors, who do not have a significant presence in Connecticut, would not be obligated to disclose such proprietary information. Moreover, we may be forced to move our product development and R&D work out of Connecticut to other states where such proprietary information need not be disclosed publicly.

- In the context of providing health care providers with necessary training on the safe and effective use of a company's medical devices, modest travel, lodging and meals are only allowable where the "expenses to be paid are described in the written agreement between the health care provider and the device vendor for the **purchase of the device.**" First, most purchase agreements that device manufacturers enter into are with distributors, group purchasing organizations ("GPOs") or healthcare facilities and not directly with health care providers as defined in the draft bill. Thus, in most cases, no such written purchase contracts exist. Second, if a health care provider's employer does not pay for the modest and occasional travel for these occasions, then health care providers; and, in turn, patients, may lose out on important safety information and medical advancements. Finally, for certain devices, the U.S. Food and Drug Administration ("FDA") mandates training to assure safe and effective use of those medical devices. In

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order to achieve this mandate, companies must be able to facilitate such training by reimbursing health care providers for their reasonable travel. Accordingly, as currently drafted, the foregoing proposed restriction presents significant challenges to providing adequate training for such devices.

It is important to note that we are also opposed to this legislation as we believe that current industry codes of ethics and current Federal legislation provide a robust ethical framework for our industry. Our principal industry trade group has already established stringent ethical standards. In this regard, Covidien is an active member of the Advanced Medical Technology Association (“AdvaMed”), and we are proud to abide by the AdvaMed Code of Ethics. In general, the AdvaMed Code, which was strengthened last year, prohibits device firms from providing any: non-educational gifts to healthcare practitioners; or gifts that do not benefit patients. Similarly, Covidien adheres to the code of ethics adopted by the Pharmaceutical Research and Manufacturers of America (“PhRMA”), the pharmaceuticals’ trade group.

Covidien supports the disclosure of manufacturer-physician relationships. However, we strongly believe that the best legislative approach in meeting this objective is through a single national standard, rather than a number of conflicting multistate requirements that will undoubtedly add unnecessary financial and administrative burdens to both companies and the State of Connecticut. As such, we support the federal Physician Payments Sunshine Act of 2009, which has been incorporated into both the U.S. House and U.S. Senate healthcare reform bills and the President’s Healthcare Reform compromise discussed at the bi-partisan summit last Thursday. Accordingly, the language surrounding the disclosure of manufacturer-physician relationships will likely soon move forward either through a more comprehensive reform bill, or on its own. The

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disclosure requirements in the instant bill are, therefore, unnecessary and may eventually result in confusion within the industry.

In Massachusetts, Covidien dedicated, and continues to dedicate, considerable time and resources to comply with a very similar law that has been enacted in the Commonwealth of Massachusetts. In fact, its first reporting period is set for this July. This bill's language, and subsequent rules and regulations promulgated by the Massachusetts Department of Public Health, have been challenging and costly for companies like Covidien, who have gone to great lengths to comply. Covidien will eventually spend well over \$1,000,000 in order to comply; saying nothing of tremendous resources we have poured into compliance in-house. Law firms, groups and associations holding seminars, software companies and consultants have all profited mightily in an effort to assist companies with guidance and solutions to comply with the law, while the State of Massachusetts and companies such as Covidien have spent tens of millions of dollars in order to try and make the law work. Just last Friday, our chief trade association in Massachusetts, together with a large global law firm, hosted yet another, in a seemingly endless number of meetings and conferences for those struggling to understand nuances in the law and bring companies into compliance.

For the above reasons, we urge you to vote against moving this bill beyond this Committee. I encourage you to consider thoroughly that the combination of our existing strict industry Code of Ethics and national disclosure requirements Federal legislation are the most effective way to prohibit inappropriate behavior and disclose appropriate payments while maintaining the high quality of care our patients have come to expect.

Thank you for your consideration of my comments today.