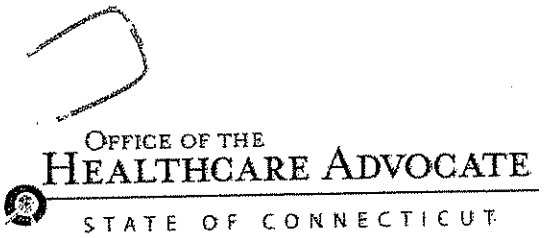

Testimony of Kevin P. Lembo
Healthcare Advocate

Before the Public Health Committee
In support of SB 270 and SB 248
March 1, 2010

Good morning, Senator Harris, Representative Ritter, Senator Debicella, Representative Giegler, and members of the Public Health Committee. For the record, I am Kevin Lembo, the State Healthcare Advocate. The Office of the Healthcare Advocate (OHA) is an independent state agency with a three-fold mission: assuring managed care consumers have access to medically necessary healthcare; educating consumers about their rights and responsibilities under health insurance plans; and, informing you of problems consumers are facing in accessing care and proposing solutions to those problems. I submit this testimony for the record.

OHA supports SB 270, AN ACT CONCERNING THE ESTABLISHMENT OF A REGIONAL POLICY ON THE PROHIBITION OF CERTAIN GIFTS FROM PHARMACEUTICAL AND MEDICAL DEVICE MANUFACTURING COMPANIES TO HEALTH CARE PROVIDERS. This bill deserves passage. It reflects the tremendous amount of work put into this bill by Jean Rexford of the Center for Patient Safety and the Attorney General's office.

Prescription drug spending rose 500% between 2000 and 2005. Nearly one-third of the increase is attributed to marketing efforts. Gifts and incentives come along with the heavy sales pitch for the latest and "greatest" generation of medication, which are expensive and, sometimes, unnecessary. Studies reviewed in the *Journal of the American Medical Association* found that even small gifts influence prescribing decisions. Even token gifts including a company logo drive up name recognition. Regardless of their value, all gifts create demands for reciprocity. The research shows that the latest and "greatest" drug is often not the best, but always the most expensive – adding unnecessary cost the system. At the end of the day this is a case of a powerful commercial influence being wielded over prescribers and consumers. That influence needs to be reigned in.

SB 270 adopts the provisions of the successful Massachusetts law prohibiting almost all gifts from pharmaceutical and medical device companies to health care providers and their employees. Samples and payments for participating in clinical trials would still be

permitted under SB 270. This is especially important for those patients who do not have insurance and for ongoing medical research.

SB 270 also requires the pharmaceutical and medical device companies to disclose to the DPH the value, nature, purpose and particular recipient of any fee, payment, subsidy or other economic benefit with a value of fifty dollars or more, that the company provides, directly or through its agents, to any covered recipient in connection with the company's sales and marketing activities.

OHA supports the transparency sought in this bill. As healthcare costs continue to skyrocket, we must allow more scrutiny of all healthcare related expenses. I urge your support for the passage of this consumer protection bill.

OHA also supports SB 248, AN ACT CONCERNING ADVERSE EVENTS AT HOSPITALS AND OUTPATIENT SURGICAL FACILITIES. This bill provides a much needed incentive for clear and complete adverse event reporting by hospitals and outpatient surgical facilities. Right now, when adverse events are reported to DPH, they do not consistently include a summary of the hospital or outpatient surgical facility's corrective action and whether the department has reviewed the implementation of such corrective action.

The requirement that DPH perform random audits of the hospitals and outpatient surgical facilities for report compliance should promote detailed and complete reporting of adverse events, and improved patient care as facilities comprehensively address the causes of and solutions to adverse events.

This legislation, proposed by the Attorney General comes on the heels of his office's discovery of inadequate and incomplete adverse event reporting by hospitals and surgical facilities. The information in these reports is shielded from public view and allows complete disclosure on the part of the individuals involved with the adverse event. That protection and the possibility of a substantial fine for noncompliance should encourage accurate reporting. I urge passage of the bill.

Thank you for your consideration of OHA's testimony.