



April 8, 2009

The Honorable Richard Lugar  
United States Senate  
Washington, D.C. 20510

The Honorable Evan Bayh  
United States Senate  
Washington, D.C. 20510

Dear Senators Lugar and Bayh:

On behalf of the Indiana Medical Device Manufacturers Council, we are writing to ask for your help to improve important legislation introduced by Senators Grassley and Kohl, S. 301, the Physician Payments Sunshine Act. We support the goals and public policy underlying this legislation and laud the Senators for their willingness to work with industry as well as consumer groups to shape the legislation.

We believe the legislation should be modified to clearly establish a federal uniform standard that would create one definitive system as the repository for this type of information. States should be prohibited from requiring parallel and perhaps significantly more burdensome information.

The Sunshine legislation would require medical device manufacturers and others to report items of value provided to physicians in order to render transparent the financial relationships between such manufacturers and physicians. Such transparency can help to inform patients about important relationships that exist between the medical technology industry and physicians to develop technologies and ensure proper training in their use.

The medical device industry is vitally important to the economy of the state of Indiana. With approximately 18,500 employees, Indiana ranks third among all states in medical technology employment, behind California and Florida.<sup>1</sup> Employment in this sector has increased by 32.8%, or approximately 4500 jobs, since 2001 while other manufacturing jobs in Indiana have decreased by about 66,000. These are high paying jobs, with average annual wages of approximately \$61,000. While the industry comprises several large multinational companies, the vast majority of entities are small, innovative companies. In fact, there are nearly 300 medical technology companies in Indiana.

The medical technology industry also requires suppliers, subcontractors, and other support industries, estimated to generate 4.07 jobs for each med tech job, resulting in about 76,000 additional jobs in Indiana.<sup>2</sup> This is the second highest job multiplier in the country.

As one of the bright spots in a weak economy, we hope you will support efforts to keep the medical technology industry robust in Indiana, including our request that you weigh in with Senators Grassley and Kohl on a key provision of their legislation.

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<sup>1</sup> U.S. Department of Labor, Bureau of Labor Statistics, *Quarterly Census of Employment and Wages*. See attached chart.

<sup>2</sup> "State Impacts of the Medical Technology Industry" Prepared by the Lewin Group for AdvaMed

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While the federal Sunshine legislation has been taking shape, we have become increasingly concerned by the activity in a growing number of states to require similar reporting schemes. Massachusetts has already enacted legislation that is currently being implemented, and several other states—not including Indiana—have legislation in various stages of development. In order to avoid a patchwork of inconsistent and burdensome reporting requirements that could be confusing to patients, we strongly support a uniform, federal system. Establishing data collection and reporting systems will be an enormous undertaking, for both large and small medical technology companies. It will likely cost millions of dollars for the companies in Indiana. While we are willing to undertake this initiative, we also urge that lawmakers take into consideration the need to make the system rational, uniform and not unduly burdensome.

We urge you, therefore, to weigh in with Senators Grassley and Kohl, to ask them to consider establishing one federal, uniform standard that would create one definitive system as the repository for this type of information. States should be prohibited from requiring parallel and perhaps significantly more burdensome reporting.

One aspect of this would be to amend the legislation so as to prohibit states from requiring the reporting of the exclusions contained in Section 2(g)(10)(B) of S. 301. This section refers to several types of items of value that industry agrees are inappropriate for companies to collect and report. An example of this is discounts and rebates. Reporting the discounts and rebates we provide to our customers could lead to the revelation of pricing information that may violate antitrust laws. Other examples of exclusions include: product samples not intended to be sold and intended for patient use, educational materials that directly benefit patients, items or services provided under a contractual warranty, and in-kind items used for the provision of charity care. These items are excluded from federal reporting for important policy reasons and states should be prevented from requiring their disclosure as well.

In its current form, the legislation does not prevent states from requiring the reporting of these items. We are concerned that states may require the reporting of these items substantially increasing the burden on industry without yielding a public policy benefit.

Thank you very much for your consideration. We appreciate all you do for the people of Indiana and hope you will be sympathetic to our interests expressed in this request. Please do not hesitate to contact us if you have any questions.

Sincerely yours,



Bill Kolter, Corporate Vice-President, Biomet, Inc.



Susan Reardon, Director, Johnson & Johnson

Cochairs, Advocacy Committee  
Indiana Medical Device Manufacturers Council

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