

October 13, 2009

Via Electronic Transmission

The Honorable Nancy Pelosi
Speaker of the House
United States House of Representatives
H-232, US Capitol
Washington, DC 20515

The Honorable Harry Reid
Majority Leader
United States Senate
H-221, US Capitol
Washington, DC 20515

Dear Speaker Pelosi and Majority Leader Reid:

On behalf of the undersigned 241 organizations, including trade associations, medical device companies and venture capital firms representing tens of thousands of medical technology jobs, we are writing to express our steadfast opposition to the proposed medical device fee included in the Senate Committee on Finance ("Committee"), conceptual language mark of the America's Healthy Future Act ("AHFA"). If enacted, this fee would have a devastating impact on innovation, investment and the nation's economy. Therefore, we urge you to oppose the inclusion of this tax in any bill that proceeds through Congress.

The proposed tax of \$4 billion annually equates to roughly a 3.5% tax on total revenues (not profits) for a given company. It is important to keep in mind, however, that the medical device industry relies upon emerging companies to develop innovative products, often requiring tens or hundreds of millions of dollars in investment. As currently structured, the tax's sliding scale up to \$25 million in annual revenues will do little, if anything, to preserve critical revenue for emerging companies and is well below the fee relief afforded smaller drug companies (drug industry fee relief up to \$400 million in annual sales to the federal government). In addition, companies and venture capitalists have stated that often a medical device company needs \$100 million in annual revenues before the first dollar of profit is generated.

Proponents of the tax conclude that due to an increased pool of insured beneficiaries, the adverse effect on device manufacturers will be minimal since more beneficiaries will have access to these products. The facts do not justify this assumption, however. Given that the majority of products that will be the most impacted are used in acute care settings where there are legal obligations to treat a patient, the effect of expanded coverage will likely be negligible. In fact, several companies have examined utilization in Massachusetts (the only state with universal coverage) since its health care reforms and have observed no significant increase in sales.

In addition, given that the overwhelming majority of medical products are reimbursed through hospitals under a bundled payment structure, the device industry will already be negatively impacted by \$155 billion in cuts to the hospital industry over the next 10 years. It is projected that the \$155 billion in hospital cuts will translate into \$15-\$17 billion in cuts to the device industry. In addition, proposed cuts in the areas of imaging, durable medical equipment and clinical lab supplies are expected to total approximately \$6 billion over 10 years.

At a time when the federal government is working to promote investment in U.S. industries of the future, it is inconsistent that a tax of this magnitude would be considered on the medical device industry. Currently, the U.S. is the global leader in the development and commercialization of medical devices and it represents one of the few industries with a net trade surplus. In addition, the U.S. medical technology industry is responsible for nearly 2 million jobs, including some of the highest paying manufacturing jobs in the country. Furthermore, the medical device industry is comprised mainly of small businesses. In fact, more than 80 percent of medical device companies employ fewer than 50 people.

There can be little doubt -- the proposed tax will have a cascading effect upon innovation, access and employment in the industry. Should the device tax be implemented, the U.S. will lose its status as the global leader in this market. More companies will likely choose to commercialize their products overseas and a healthy sector of the economy will falter, with a reduction in workforce levels and decrease in well-paying jobs. Most importantly, however, will be the fact that patients will lose access to these innovative and often cost-saving medical technologies. For decades American medical device companies have created products and approaches that relieve pain, save lives and create futures for generations of Americans and for families and people worldwide. It is our daily task to provide remedies, seek cures, offer hope, and put patients first. This proposed tax will damage, if not, derail that mission.

Therefore, we urge you to oppose this medical device industry tax as part of any health care reform bill.

Signatories Attached

cc:

The Honorable Mitch McConnell
Minority Leader, U.S. Senate

The Honorable John Boehner
Minority Leader, U.S. House of Representatives

The Honorable Max Baucus
Chairman, U.S. Senate Committee on Finance

The Honorable Chuck Grassley
Ranking Member, U.S. Senate Committee on Finance

The Honorable Tom Harkin
Chairman, U.S. Senate Health, Education, Labor and Pensions Committee

The Honorable Mike Enzi
Ranking Member, U.S. Senate Health, Education, Labor and Pensions Committee

The Honorable Henry Waxman
Chairman, U.S. House of Representative Energy and Commerce Committee

The Honorable Joe Barton,
Ranking Member, U.S. House of Representative Energy and Commerce Committee

The Honorable Charles Rangel
Chairman, U.S. House of Representative Ways and Means Committee
The Honorable David Camp
Ranking Member, U.S. House of Representative Ways and Means Committee

The Honorable George Miller
Chairman, U.S. House Committee on Education and Labor

The Honorable John Kline
Ranking Member, U.S. House Committee on Education and Labor

Trade Associations

BayBio
South San Francisco, CA

MichBio
Ann Arbor, MI

BIOCOM
San Diego, CA

Florida Medical Manufacturers' Consortium
St. Petersburg, FL

California Healthcare Institute
La Jolla, CA

New Hampshire Bio/Medical Council
Concord, NH

Colorado BioScience Association
Denver, CO

North Carolina Biosciences Organization
Research Triangle Park, NC

Indiana Medical Device Manufacturers
Council, Inc.
Indianapolis, IN

Pennsylvania Bio
Malvern, PA

Life Science Alley
Minneapolis, MN

Southern California Biomedical Council
Los Angeles, CA

MassMEDIC
Boston, MA

Utah Technology Council
Salt Lake City, UT

Medical Device Manufacturers Association
Washington, DC

Washington Biotechnology & Biomedical
Association
Seattle, WA

MedTech Association
Syracuse, NY

Companies

3C Spine, Inc.
Irvine, CA

AbbeyMoor Medical, Inc.
Parkers Prairie, MN

Acclarent, Inc.
Menlo Park, CA

AccessClosure, Inc.
Mountain View, CA

Accuitive Medical
Ventures
Fernandina Beach, Florida

Acorn Cardiovascular, Inc.
St. Paul, MN

ACUFOCUS, INC.
Irvine, CA

Addition Technology, Inc.
Des Plaines, IL

Adhezion Biomedical,
LLC
Wyomissing, PA

Advanced Scientifics, Inc.
Millersburg, PA

Align Technology
Santa Clara, CA

Allergan Medical
Irvine, CA

Allvivo Vascular, Inc.
Lake Forest, CA

ALPCO Diagnostics
Salem, NH

Alps south llc
Saint Petersburg, FL

Alta Partners
San Francisco CA

Angel Medical Systems,
Inc.
Shrewsbury, NJ

AngioDynamics
Queensbury, NY

Anspach Companies, Inc.
Palm Beach Gardens, FL

Apnex Medical, Inc.
St. Paul, MN

AqueSys, Inc.
Irvine, CA

ArKal Medical, Inc.
Fremont, CA

Asthmatx, Inc.
Sunnyvale, CA

Atritech, Inc.
Plymouth , MN

ATS Medical
Minneapolis, MN

Aurident, Inc.
Fullerton, CA

Avantis Medical Systems
Sunnyvale, CA

Axiom Medical Inc.
Torrance, CA

B. Braun Medical Inc.
Bethlehem, PA

Baxa Corporation
Englewood, CO

Benvenue Medical, Inc.
Santa Clara, CA

BioBusiness Alliance of
Minnesota
Minneapolis, MN

BioCardia
San Carlos, CA

Biosensors International
USA
Newport Beach, CA

Biomerix Corporation
Fremont, CA

Biomet
Warsaw, IN

Bledsoe Brace System
Carlsbad, CA

Breathe Technologies, Inc.
San Ramon, CA

Cabochon Aesthetics
Menlo Park, CA

Calibra Medical, Inc.
Redwood City, CA

Calypso Medical
Seattle, WA

Cameron Health Inc
San Clemente, CA

Canaan Partners Menlo Park, CA	CONMED Corporation Utica, NY	Elemé Medical Inc. Merrimack, NH
Carbon Medical Technologies, Inc. St. Paul, MN	Cook Group, Inc. Bloomington, IN	Essex Woodlands Health Ventures, LLP Palo Alto CA
Carbylan Biosurgery, Inc. Palo Alto, CA	Coronis Medical Ventures Sunnyvale, CA	Estech, Inc San Ramon, CA
CardiacAssist, Inc. Pittsburgh, PA	CVRx, Inc. Minneapolis, MN	ev3 Inc., Plymouth, MN
Cardiac Dimensions Kirkland, WA	CuraSeal Inc Santa Clara CA	Evalve, Inc. Menlo Park, CA
Cardiac Science Bothell, WA	Cyberonics Houston, TX	Exactech, Inc. Gainesville, FL
CardioMEMS, Inc. Atlanta, GA	Cynosure, Inc. Westford, MA	Experien Group, LLC Sunnyvale, CA
Carticept Medical, Inc. Alpharetta, GA	Cytori Therapeutics, Inc. San Diego, CA	ExploraMed Development, LLC Mountain View, CA
CEA Technologies Colorado Springs, CO	.decimal Sanford, FL	FHT, Inc., Daytona Beach, FL
CHF Solutions, Inc. Brooklyn Park, MN	Delcath Systems, Inc. New York, NY	FlowCardia, Inc. Sunnyvale, CA
CLRS Technology Costa Mesa, CA	Domain Associates San Diego, CA Princeton, NJ	ForSight Labs, LLC Menlo Park, CA
CoAptus Medical Corporation Redmond, WA	Dynatronics Salt Lake City, UT Ooltewah, TN	ForSight VISION3, Inc. Menlo Park, CA
Concentric Medical, Inc. Mountain View, CA	EBR Systems Inc. Sunnyvale, CA	ForSight VISION4, Inc. Menlo Park, CA
Conceptus, Inc. Mountain View, CA	EKOS Corporation Bothell, WA	The Foundry, LLC Menlo Park, CA
ConcepTX Medical Plymouth, MN	Endologix Irvine, CA	Fujirebio Diagnostics, Inc. Malvern, PA

Gen-Probe Incorporated San Diego, CA	The Innovation Factory Atlanta, GA	KAER Biotherapeutics San Marcos, CA
Grandview Medical Resources, Inc. Bridgeville, PA	Integra LifeSciences Holdings Corporation Plainsboro, NJ	Kaye Suzuki Device Consulting, LLC Seattle, WA
GluMetrics Inc. Irvine, CA	IntelliDx, Inc. Santa Clara, CA	Kinamed Inc. Camarillo, CA
Guided Delivery Systems Santa Clara, CA	Interlace Medical, Inc. Framingham, MA	KRONUS, Inc. Boise, ID
Harbinger Medical, Inc. Eden Prairie, MN	Interrad Medical, Inc. Plymouth, MN	Lake Region Medical Chaska, MN
HeartWare, Inc. Miami Lakes, FL	IntraPace, Inc. Mountain View, CA	LehmanMillet Boston, MA Irvine, CA
Hemerus Medical, LLC Saint Paul, MN	Intrinsic Therapeutics, Inc. Woburn, MA	LenSx Lasers Inc. Aliso Viejo, CA
Hotspur Technologies, Inc. Mountain View, CA	Invictus Holdings LLC Irvine, CA	Lifecore Biomedical, LLC Chaska, MN
Hull Associates Bethesda, MD	Ionix Medical Maple Grove, MN	LogicMark Fairfax Station, VA
Hutchinson Technology Inc. - BioMeasurement Division Hutchinson, MN	Ivantis, Inc. Irvine, CA	Luminous Medical Inc. Carlsbad, CA
Ikaria Holdings Clinton, NJ	Janus Development Group Greenville, NC	Lutonix, Inc. Maple Grove, MN
Immuno-Mycologics, Inc. (IMMY) Norman, OK	JDC Spencer Investment Trust Wayzata, MN	Masimo Corporation Irvine, CA
Impedance Cardiology Systems Inc. Carlsbad, CA	Johannes Gaston Design, Inc. Minnetonka, MN	Medicis Technologies Corporation Scottsdale, AZ
InnerPulse, Inc. Durham, NC	JR Associates Los Angeles, CA	Medigroup, Inc. Oswego, IL

Microfabrica Inc. Van Nuys, CA	Neuronetics, Inc. Malvern, PA	OraMetrix, Inc. Richardson, TX
Miramar Labs Sunnyvale, CA	NeoChord Inc Minnetonka, MN Neuralieve, Inc. Sunnyvale, CA	OrthoMEMS, Inc. Menlo Park, CA
Minnow Medical, Inc. San Diego, CA	NeuroPace Mountain View, CA	Orthovita, Inc. Malvern, PA
MPR Associates, Inc. Alexandria, VA	NeoTract, Inc. Pleasanton, CA	OsteoMed Addison, TX
Moog Medical Devices Group East Aurora, NY Salt Lake City, UT Temecula, CA Huntington Beach, CA	NeuroVista Corporation Seattle, WA	Ouroboros Medical Inc. Pleasanton, CA
Morgenthaler Ventures Menlo Park, CA	Neuro Resource Group, Inc. Plano, TX	Paladin Medical, Inc. Stillwater, MN
Moximed, Inc. Hayward, CA	NeuroVasx, Inc. Maple Grove, MN	Pathfinder Therapeutics, Inc. Nashville, TN
MRI Medical Tucson, AZ	Nims, Inc. Miami, FL	Pathway Medical Technologies Inc. Kirkland, WA
MyoScience, Inc. Redwood City, CA	Nova Biomedical Corporation Waltham, MA	Pinnacle Perspectives LLC Phoenix, AZ
NDH Medical, Inc. St. Petersburg, FL	Novasys Medical, Inc. Newark, CA	Pcor Medical, Inc. Sunnyvale, CA
Nelson Laboratories, Inc. Taylorsville, UT	NuVasive San Diego, CA	Plasma Technologies, Inc. Corpus Christi, TX
Neodyne Biosciences Menlo Park, CA	Ocular Therapeutix, Inc. Waltham, MA	Plexus Biomedical, Inc. Oakland, TN
New Enterprise Associates Chevy Chase, MD	OmniGuide Inc Cambridge, MA	PolyRemedy, Inc. Mountain View, CA
New Leaf Venture Partners Menlo Park, CA	Optimum Performance Solutions LLC Topeka, KS	Portaero, Inc. Cupertino, CA
		PowerVision, Inc. Belmont, CA

QSpex Technologies, Inc.
Alpharetta, GA

QuantumCor, Inc.
Bothell, WA

ReGen Biologics, Inc.
Hackensack, NJ

ResMed Inc.
San Diego, CA

Revolutionary Surgical
Device, LLC
Los Angeles, CA

ROX Medical, Inc
San Clemente, CA

Rubicon Medical Inc.
Redwood City, CA

Sensors for Medicine and
Science, Inc.
Germantown, MD

Sequent Medical, Inc.
Aliso Viejo, CA

Sequent Medical Inc.
Aliso Viejo, CA

Signature Genomic
Laboratories
Spokane, WA

Signus Medical, LLC.
Minneapolis, MN

SpectroScape
San Francisco, CA

SpinalKinetics
Sunnyvale, CA

Spinal Modulation, Inc
Menlo Park, CA

SpinalMotion, Inc.
Mountain View, CA

Spine Wave, Inc
Shelton, CT

Spineology Inc.
St. Paul, MN

Spiracur Inc.
Redwood City, CA

Spiration, Inc.
Redmond, WA

SquareOne
Camarillo, CA

superDimension
Minneapolis, MN

SurModics, Inc.
Eden Prairie, MN

Swan Valley Medical,
Incorporated
Bigfork, MT

Synergy Life Science
Partners
Portola Valley, CA

Synecor, LLC
Portola Valley, CA
Durham, NC

Tactile Systems
Technology, Inc.
Minneapolis, MN

The Tamarack Group –
MPLS, Inc.
Maple Grove, MN

TearScience, Inc
Morrisville, NC

Therapeutic Systems LLC
Amherst, MA

TheraSyn DM, LLC
Buffalo, NY

TheraTogs, Inc.
Telluride, CO

TherOx, Inc.
Irvine, CA

Three Arch Partners
Portola Valley. CA

Transcend Medical Inc.
Menlo Park, CA

Transoma Medical
St. Paul, MN

TriVascular2, Inc.
Santa Rosa, CA

Urovalve, Inc.
Newark, NJ

USGI Medical, Inc.
San Clemente, CA

Vapotherm, Inc.
Stevensville, MD

Vascular Solutions, Inc.
Maple Grove, MN

Velomedix
Menlo Park, CA

The Vertical Group
Summit, NJ
Palo Alto, CA

Viacor
Wilmington, MA

Vibrynt
Mountain View, CA

Vital/Med Systems
Corporation
Centennial, CO

Vital Therapies Inc
San Diego, CA

Varix Medical
Corporation
Sunnyvale CA

WaveRx Inc
Waltham, MA

WaveTec Vision Systems
Aliso Viejo, CA

ZOLL Medical
Corporation
Chelmsford, MA