

COMMITTEE ON PUBLIC HEALTH

March 2, 2009

Senate Bill 1049

**An Act Prohibiting Certain Gifts from Pharmaceutical
and Medical Device Companies to Health Care Providers**

The Biotechnology Industry Organization (BIO) respectfully submits the following comments in opposition to Senate Bill 1049, **An Act Prohibiting Certain Gifts from Pharmaceutical and Medical Device Companies to Health Care Providers**. BIO is a national trade organization, based in Washington, D.C., representing more than 1,200 biotechnology companies, academic institutions, state biotechnology centers, and related organizations worldwide. BIO members are involved in the research and development of healthcare, agricultural, industrial and environmental biotechnology products.

In Connecticut, we work closely with the Connecticut United for Research Excellence an organization that represents more than 100 biotechnology companies, universities, academic institutions and others dedicated to advancing cutting edge research.

There are consistent national standards for sales and marketing set forth under federal law and industry guidelines, and BIO believes that additional state regulation is unnecessary. Industry sales and marketing practices are strictly regulated and subject to significant penalties under the Federal Anti-Kickback Laws, False Claims Act, and other federal statutes, and BIO supports strict adherence to these laws. This umbrella of federal laws broadly encompasses biotechnology manufacturers' activities and is actively enforced by the Department of Health and Human Services (HHS). Additionally, the HHS Office of Inspector General's (OIG) Compliance Program Guidance (CPG)¹ provides guidance on how companies can establish compliance programs to help to assure that contact between physicians and manufacturers are appropriate and minimize the risks of fraud and abuse.

This provision will negatively impact small biotechnology companies putting them at a competitive disadvantage to larger pharmaceutical companies. Small biotechnology companies generally do not have the same resources as large pharmaceutical companies to reach out to physicians. Small biotech companies target their education and outreach activities to physicians who prescribe their products and to physicians whose practices are concentrated in specific analogous specialties (such as oncology or neurology). This targeted education and outreach activity permits small biotech companies to expand access to and use of specialized medications developed for the treatment of chronic and intractable diseases. These biologic therapies are often the only available treatment in their therapeutic class.

The unintended consequences of this law may negatively impact the convention and meeting economy of Connecticut. The restrictions and ambiguities for companies

¹ OIG Compliance Program Guidance for Pharmaceutical Manufacturers, 68 Fed. Reg. 23,731 (May 5, 2003)

participating as sponsors at a continuing education event, third-party scientific or educational conference, or professional meeting will discourage organizations from hosting meetings and conferences in Connecticut. This is clearly illustrated in Massachusetts which passed similar gift ban legislation and has caused several cancellations of major medical conferences. Specifically, the Academy of Allergy, Asthma & Immunology Convention canceled their 8,000-attendee show in Boston and plan to move to another city, canceling thousands of hotel bookings due to “the state’s new law remains unclear and out of sync with industry gift-giving standards”

². With Massachusetts’s passage of this ill-advised law creates a great opportunity for Connecticut to seize this revenue produced from the relocation of these medical, pharmaceutical, and life sciences companies’ small and large meetings, training sessions, conferences, trade shows, and potentially clinical trials.

Senate Bill 1049 will only serve to impede the state’s efforts to grow its life sciences industries. This legislation is reactionary and would only serve to harm the state’s reputation as a center of excellence for technology development – a reputation that has attracted, and helped to retain so many outstanding research organizations. BIO applauds the commitment Connecticut has shown to new technologies and research. Senate Bill 1049 could significantly undermine the state’s leadership position in the life sciences.

BIO’s member companies serve a vital role in helping to educate physicians about breakthrough medicines —and we believe this communication is in the best interest of public health. Healthcare providers and, most importantly, patients benefit from the free flow of truthful, non-misleading scientific information regarding biologic products that can only occur in interactions between biotechnology company representatives and healthcare providers.

We appreciate the Committee’s consideration of our concerns and encourage members to oppose Senate Bill 1049.

Respectfully Submitted,

John Gibson
State Government Relations

² Fitzgerald, Jay. “Group drops event, says doc-gift rules too strict” The Boston Globe 21 January 2009