

December, 2003

Governor George Pataki
Executive Chamber
New York State Capitol Building
Albany, New York 12224

Dear Governor Pataki,

On behalf of the New York State Biotechnology Association Board of Directors and over 260 NYBA member companies, we are writing to express deep concern that New York is considering approval of Preferred Drug List and Supplemental Rebates for Medicaid and other publicly financed programs. **We urge your administration NOT to move forward with these proposals, and to take every action to prevent a Preferred Drug List and Supplemental Rebates from being implemented in New York State.**

We are very grateful for actions your administration has taken, through the creation of the Centers for Excellence, Ge*NY*sis, and other programs, which have put New York in a better position to become a biotech leader and a premier place for life sciences research. It is our hope that your administration will continue to play a leadership role in insuring a legislative and regulatory environment that encourages innovation and allows for access to state-of-the art medications.

Currently, virtually all FDA approved state-of-the art medicines are available to Medicaid and Elderly Pharmaceutical Insurance Coverage Program recipients, without restriction. Preferred Drug List & Prior Authorizations (which create bureaucratic obstacles for physicians and patients to access state-of-the art medicines) and Supplemental Rebates (which are direct price controls) are completely contrary to the goals of the Centers for Excellence, Ge*NY*sis, and other initiatives, which are designed to encourage innovation and to promote biotechnology development for New York State. New and higher cost medications (including biotech discoveries) will become primary targets for exclusion from Preferred Drug Lists, for Prior Authorization, and for Supplemental Rebates.

The ultimate success of the Centers for Excellence, Ge*NY*sis, and other efforts to make New York a biotechnology leader, largely depend on patients having access to the new medicines that are developed. Recent discoveries such as the mapping of human DNA, advances in computer technologies and the construction of super small machines that work at the cellular and molecular levels have been combined together to fashion a new generation of vaccines, drugs, and diagnostic tools. This revolution in research and development in health care will allow the creation of more effective treatments and cures for illness.

Implementing Preferred Drug Lists, Prior Authorization, and Supplemental Rebate will have no real benefit for patients and will not save overall health care costs. There are a

myriad of studies available, which demonstrate that restricting formularies increase rather than decrease overall health care costs and have negative impacts on patient care.

For all of the reasons mentioned, **we urge you NOT to move forward with these proposals, and to take every action to prevent them from being implemented in New York State.**

Thank you for consideration of our views on this issue. We would be pleased to discuss this issue further with you at your earliest convenience.

Sincerely,

Karin A. Duncker
Executive Director
NYBA

NYBA Officers

Ron Cohen
NYBA Chairman
President & CEO
Acorda Therapeutics

Thomas D'Ambra
NYBA Secretary
Chairman & CEO
Albany Molecular Research Inc.

Jack Huttner
NYBA Vice Chairman
Vice President
Communications & Public Affairs
Genencor International Inc.

Richard Catalano
NYBA Treasurer
Partner
Life Sciences Practice KPMG LLP

NYBA Board of Directors

Garo Armen
Chairman & CEO
Antigenics Inc.

Lyn Dyster
President & CEO
GenCyte

Thomas Carbone
Partner
PricewaterhouseCoopers LLP

Mitch Gipson
Executive Director
Audubon Biomedical Science &
Technology Park

Timothy Cooke
CEO
Mojave Therapeutics Inc.

Michael Goldberg
Chairman & CEO
Emisphere Technologies, Inc.

Stuart Kolinski
Vice President & General Counsel
Regeneron Pharmaceutical Inc.

Emer Leahy
President & CEO
PsychoGenics Inc.

Paul Maddon
Chairman & CEO
Progenics Pharmaceuticals, Inc.

Donald Mazzullo
General and Legislative Counsel
Harter, Secrest & Emery LLP

Dennis J. Purcell
Sr. Managing Partner
Perseus - Soros Biopharmaceutical Fund

Clinton Rubin
Director
Center for Biotechnology
SUNY Stony Brook

Bruce Stillman
Director & CEO
Cold Spring Harbor Laboratory

Frederick W. Telling
Vice President
Corporate Policy & Strategic
Management
Pfizer Inc.

Maurice Zauderer
President & CEO
Vaccinex Inc.