

PHOENIX Business Journal

Friday, January 22, 2010

Health care reform: Provisions could hurt bioscience

Phoenix Business Journal - by [Robert Green](#)

No doubt we've all heard plenty about the major issues surrounding health care reform. The problem with such important and far-reaching national legislation is that many issues proceed with little debate or public notice. Under the radar is an important change to the nation's patent system that, if enacted, could adversely affect one of the few bright spots in the U.S. and Arizona economies: bioscience.

The problem is in provisions that would change the rules regarding patents for biologic medicines. These medicines are manufactured in a living system such as a micro-organism, plant or animal cell that produces a desired protein. The protein then is used to treat patients. Biologics treat severe diseases such as cancer, multiple sclerosis, rheumatoid arthritis and psoriasis, and they include many of today's blockbuster drugs.

Biologics are considered the greatest hope for many diseases for which there is no effective treatment or cure. Today, the critical work of discovering and developing these drugs is taking place in public and private laboratories across our country and our state.

Provisions in the U.S. Senate's health care reform bill essentially would create patent laws that are unique to biologics. These provisions are less favorable to patent holders than the existing system governing all other products, including other types of drugs, developed in this country.

In short, these provisions would make it much more difficult for patent holders to defend their rights and prevent others from infringing on issued patents. On the other hand, language included in the U.S. House health reform bill does not follow this approach and appropriately applies existing U.S. patent principles to biologics.

Drug development is a risky and expensive process. Only 1 percent of new treatments make it through the rigorous research and development process, which takes an average of 15 years and \$1.2 billion. Knowing these risks, investors in both large and small bioscience companies rely on adequate patent protection to ensure the potential reward is worth the

gamble. Reducing this protection reduces the value of the underlying invention, which could in turn reduce investments available to these ventures.

“Arizona’s universities are discovering the utility of biologics in treating a whole host of medical conditions. We may not see a commitment from industry to commercialize these discoveries without the assurance of strong patent protection,” said Dr. Michael Mobley, associate director of the Biodesign Institute at Arizona State University.

“Biologics are among the most promising new therapies for asthma, the disease that I treat and around which my research is centered,” said Dr. Fernando Martinez, director of the Bio5 Institute at the University of Arizona. “Any limitations on the patent protection for these medicines could seriously undermine progress in the treatment of this common and debilitating disease.”

The fair approach is that contained in the House version of health care reform, which applies current patent law to biologics. We hope our U.S. senators and representatives will consider this during their deliberations of the final bill.

Robert Green, a Valley attorney, is president and CEO of the Arizona BioIndustry Association. He can be reached at robert@azbio.org or 602-385-2175.

All contents of this site © American City Business Journals Inc. All rights reserved.