



April 7, 2021

The Honorable Richard Pan, Chair
Committee on Health
California Senate
State Capitol, Room 2191
Sacramento, CA 95814

Re: SB 605, Medical Device Right to Repair Act—SUPPORT

Dear Chair Pan,

Consumer Reports¹ urges you to advance SB 605. This important legislation will help ensure that powered medical devices may be fixed by repair servicers independent of the manufacturer. Our organization has long supported the “right to repair,” including by developing a model act to help guide state legislators.² We have incorporated this principle into the Digital Standard, a set of best practices that we use to evaluate the privacy and security of software, digital platforms and services, and internet-connected products, as well as to help influence the design of these products.³ It is important to safeguard the right to repair, even as technology evolves, to help lower costs and ensure access to scarce products.

Unfortunately, manufacturers are clamping down on access to the diagnostic information, repair tools, and replacement parts needed to fix medical devices.⁴ These tactics force consumers to rely on the manufacturer, or the manufacturer’s chosen servicer, to fix these products. The manufacturer is then free to charge whatever it wishes, or even to refuse to repair the product. In the context of medical devices, this has interfered with the availability of critical machines such as ventilators.⁵

Ensuring the safety of these devices is of key importance to our organization, and

¹ Consumer Reports is an independent, nonprofit member organization that works side by side with consumers for truth, transparency, and fairness in the marketplace. We use our rigorous research, consumer insights, journalism, and policy expertise to inform purchase decisions, improve the products and services that businesses deliver, and drive regulatory and fair competitive practices.

² *Right to Repair Model State Law*, CONSUMER REPORTS (updated December 2, 2020), <https://advocacy.consumerreports.org/research/right-to-repair-model-state-law/>.

³ The Digital Standard, <https://www.thedigitalstandard.org/>.

⁴ *Hospital Repair Restrictions: Manufacturer-Imposed Barriers to Fixing Medical Equipment Cause Inefficiencies and Delays*, US PIRG at 9 (July 2020), https://uspiggedfund.org/sites/pirg/files/reports/Hospital_Repair_Restrictions_USPEF_7.8.20b.pdf.

⁵ Jason Koebler, *Why Repair Techs Are Hacking Ventilators with DIY Dongles from Poland*, Motherboard (July 9, 2020), <https://www.vice.com/en/article/3azv9b/why-repair-techs-are-hacking-ventilators-with-diy-dongles-from-poland>.

these concerns pertain to both repairs made by the manufacturer and by independent repairers. Appropriate safety oversight is warranted, but can be accomplished without limiting consumers' ability to obtain quality repairs of their choice. Independent repairers already service medical devices,⁶ and third-party outfits have serviced and repaired automobiles—which are inherently dangerous—for years without compromising safety, allowing for competition which drives prices down.⁷

We hope your committee will advance this important consumer legislation. We look forward to working with you and others to secure an effective right to repair for consumers.

Sincerely,

Maureen Mahoney
Senior Policy Analyst

George Slover
Senior Policy Counsel

cc: Members, Senate Health Committee
The Honorable Susan Eggman

⁶ *FDA Report on the Quality, Safety, and Effectiveness of Servicing of Medical Devices*, U.S. Food and Drug Administration at 19 (May 2018), <https://www.fda.gov/media/113431/download>.

⁷ For example, Massachusetts adopted the right to repair for automobiles in 2013. Mass. Gen. Laws Ch. 93K § 2, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXV/Chapter93K/Section2>.