



PMRG advances the principles, practice and power of healthcare marketing research by creating a community that both supports individual professional development and acts as an advocate for the profession as a whole.

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Physician Payment Sunshine Act Safeguards Survey and Marketing Research with Physician Respondents

Minneola, FL – With Congressional passage of health care bill H.R. 3590 “Patient Protection and Affordable Care Act” on March 23, 2010, the Pharmaceutical Marketing Research Group (PMRG), a trade association representing pharmaceutical and medical device manufacturers and their marketing research consultants, has scored a victory in its first major foray into government affairs. The health care bill includes a version of a previous stand-alone bill that was known as the Physician Payment Sunshine Act (PPSA), which was designed to shed light on the financial relationships and potential for conflicts of interest between physicians and the pharmaceutical and medical device industries. The PPSA is an effort to alleviate concern about the influence that pharmaceutical and medical device companies have on physicians by making those relationships public via mandatory reporting and Internet publication. PMRG succeeded in convincing Congress to exclude the honoraria that are typically paid to physicians for participating in scientific survey and marketing research from the reporting requirements, and this amended language is contained in the newly-enacted bill.

Drafted originally in 2007 by Senators Max Baucus (D- Montana) and Charles Grassley (R- Iowa), the PPSA requires disclosure of payments or gifts of value from pharmaceutical and medical device companies to physicians. Disclosure is to be reported to the Department of Health and Human Services, which in turn will post on a public Web site how much was paid to specific physicians by specific manufacturers. The original wording of the PPSA contained language that arguably (although likely unintentionally) included public reporting of survey honoraria paid to physicians. PMRG argued that the public reporting of survey honoraria would not only chill and skew important health care survey research but would facilitate the very marketing abuses that the PPSA was intended to eliminate by revealing the names of surveyed physicians to pharmaceutical and medical device manufacturers. Congress agreed, and the pharmaceutical survey and marketing research industry has breathed a sigh of relief.

PMRG Government Affairs Chair Bill Little said, “Our concern was that survey and marketing research was not originally granted an exclusion from the disclosure requirement. After all, the purpose of survey and marketing research is to understand the opinions, beliefs and behaviors of populations, including physicians, on various subject matters – not to influence them to behave in any way. As originally written, the PPSA seemed to require incentives paid for participation in research studies to be disclosed publicly. Public disclosure would have adversely impacted our ability to recruit physician respondents, potentially biased the responses of physicians whom we did recruit, and advertised to manufacturers the otherwise anonymous identities of survey participants.”

To affect the amendment, PMRG undertook a systematic effort to educate policymakers, beginning in the spring of 2009 and continuing through the fall. In meetings with Senate and House staff members, PMRG was able to explain how survey and marketing research differs from marketing, how survey and

marketing research serves an important role in medicine, and how the PPSA as drafted would undermine the integrity of survey and marketing research with physician respondents. PMRG introduced language into the act that effectively excludes survey and marketing research from the public disclosure requirements, as long as manufacturers pay the honoraria through third parties (e.g., survey and marketing research consultants) and do not know the identities of participating physicians. Both of those tests are consistent with well-established survey and marketing research practice. Not only is it typical for pharmaceutical and device manufacturers to engage consultants to perform their research, but maintaining physician confidentiality is an ethical standard of the survey and marketing research industry.

PMRG was represented in Washington by the law firm Akin Gump Strauss Hauer & Feld, and was supported in its advocacy by the trade associations Marketing Research Association (MRA) and Council of American Survey Research Organizations (CASRO).

PMRG's win in Congress will not necessarily preclude states from enacting laws that include the reporting of survey and marketing research honoraria within their own versions of the PPSA. PMRG believes, however, that the federal act, at a minimum, will establish an insight and a guideline for state legislators and regulatory agencies in this area.

Debbie Kossman, President of PMRG, said, "Understandably the intent of the PPSA is to diminish improper marketing practices on the part of manufacturers by requiring public disclosure of physician payments and potential conflicts of interest. Survey and marketing research, however, is not a tool to influence research participants to think or behave in any way, and confidentiality ensures that there is no potential for undue influence of a pharmaceutical manufacturer on physicians. We are very pleased that our organization's efforts have succeeded at safeguarding the confidentiality of physician respondents and the integrity of survey and marketing research."

PMRG is the leading pharmaceutical marketing research organization in North America. PMRG advances the principles, practice and power of healthcare marketing research by creating a community that both supports individual professional development and acts as an advocate for the profession as a whole. For more information on PMRG, visit our Web site at www.pmrg.org or contact Stephanie Reynders, Executive Director, at stephanie@pmrg.org.

For legislative/regulatory questions, please contact PMRG's Government Affairs Chair, Bill Little, at wrlittle@deltamarketingdynamics.com or Debbie Kossman, PMRG 2010 President, at dkossman@nationalanalysts.com.