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Market Research Incentives to Physicians Under Fire from the Pharmaceutical Industry?

By Howard Fienberg, CMOR Director of Government Affairs

Scary-sounding news coverage of a recent update to the pharmaceutical industry's "voluntary code" regarding gifts to physicians caused a stir in the marketing research profession. However, a closer look reveals that the pharmaceutical companies have not yet closed the door on one of their best sources of information.

The Pharmaceutical Research and Manufacturers of America (PhRMA) Code on Interactions with Healthcare Professionals, a voluntary code of ethics, was updated this year and will take effect in January 2009. The new code has raised concerns within the marketing research profession for its handling of research incentives to physicians, but a careful reading demonstrates that PhRMA still allows for such incentives for legitimate research purposes.

The key section of the PhRMA code for market researchers is Section 6, on "Consultants" (which is how physician respondents receiving an incentive should be handled, according to the code):

Consulting arrangements with healthcare professionals allow companies to obtain information or advice from medical experts on such topics as the marketplace, products, therapeutic areas and the needs of patients. Companies use this advice to inform their efforts to ensure that the medicines they produce and market are meeting the needs of patients... It is appropriate for consultants who provide advisory services to be offered reasonable compensation for those services and reimbursement for reasonable travel, lodging, and meal expenses incurred as part of providing those services. Any compensation or reimbursement made in conjunction with a consulting arrangement should be reasonable and based on fair market value ... It is not appropriate to pay honoraria or travel or lodging expenses to non-faculty and non-consultant healthcare professional attendees at company-sponsored meetings, including attendees who participate in interactive sessions.

Section 6 requires companies to ensure something that researchers should already ensure – that respondent incentives "are neither inducements nor rewards for prescribing or recommending a particular medicine or course of treatment." Such co-mingling of research and marketing is already a violation of the Marketing Research Association Code.

The most important thing for researchers to learn from the new PhRMA code is to treat research incentives to physicians as part of a consulting arrangement. The code offers some guidelines as to what constitutes a legitimate consulting arrangement, though it emphasizes that these are more suggestions than requirements:

- a written contract specifies the nature of the consulting services to be provided and the basis for payment of those services;
- a legitimate need for the consulting services has been clearly identified in advance of requesting the services and entering into arrangements with the prospective consultants;
- the criteria for selecting consultants are directly related to the identified purpose and the persons responsible for selecting the consultants have the expertise necessary to evaluate whether the particular healthcare professionals meet those criteria;
- the number of healthcare professionals retained is not greater than the number reasonably necessary to achieve the identified purpose;
- the retaining company maintains records concerning and makes appropriate use of the services provided by consultants;
- the venue and circumstances of any meeting with consultants are conducive to the consulting services and activities related to the services are the primary focus of the meeting; specifically, resorts are not appropriate venues.

However, there are some aspects that may restrict options for market research with physicians. For instance, thinking of using sporting event tickets as an incentive for

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participating in your next focus group or conducting a research interview at a Springsteen concert? Forget about it. Section 3 of the code reads,

To ensure the appropriate focus on education and informational exchange and to avoid the appearance of impropriety, companies should not provide any entertainment or recreational items, such as tickets to the theater or sporting events, sporting equipment, or leisure or vacation trips, to any healthcare professional who is not a salaried employee of the company.

Similarly, Section 10 prohibits giving physicians the kind of trinkets you pick up at most any conference:

Providing items for healthcare professionals' use that do not advance disease or treatment education — even if they are practice-related items of minimal value (such as pens, note pads, mugs and similar “reminder” items with company or product logos) — may foster misperceptions that company interactions with healthcare professionals are not based on informing them about medical and scientific issues. Such non-educational items should not be offered to healthcare professionals or members of their staff, even if they are accompanied by patient or physician educational materials.

This code is not the first to address physician participation in marketing research. The American Medical Association, the premier professional association representing physicians, incorporated “Guidelines on Gifts to physicians from industry” into the Code of Medical Ethics a while ago. The AMA was concerned that, “Some gifts that reflect customary practices of industry may not be consistent with the Principles of Medical Ethics.” However, the AMA recognizes the importance of physician participation in marketing research:

(f) May a company compensate physicians for their time and travel expenses when they participate in focus groups?

Yes. As long as the focus groups serve a genuine and exclusive research purpose and are not used for promotional purposes, physicians may be compensated for time and travel expenses. The number of physicians used in a particular focus group or in multiple focus groups should be an appropriate size to accomplish the research purpose, but no larger.

CMOR will continue to keep the profession abreast of relevant codes and best practices. It is in all our interests to maintain close watch over the requirements of the medical profession and the pharmaceutical industry, given that they play such a large role in market research — and since skeptical legislators and regulators are watching, too.

Resources:

PhRMA code:

http://www.phrma.org/code_on_interactions_with_healthcare_professionals

AMA code:

<http://www.ama-assn.org/ama/pub/category/4001.html> and

<http://www.ama-assn.org/ama/pub/category/4263.html>

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