



Michigan H.B. 5940 Could Prohibit Pharmaceutical Marketing Research with Doctors

Michigan H.B. 5940 would prohibit a pharmaceutical manufacturer or wholesale distributor from offering or giving a “gift to a prescriber when engaged in a sales, promotional, or other marketing activity for a prescription drug.” A “gift” is defined extremely broadly.

Absent amendment, H.B. 5940 would also inadvertently prohibit respondent incentives for health care professionals participating in marketing research and data analytics studies sponsored by pharmaceutical companies even when such incentives are offered by independent marketing research companies and the sponsoring manufacturers are not aware of which prescribers participated.

As a result, prescribers in Michigan may not be properly represented in marketing research, leading to an inaccurate view of their and their patients’ needs, which will hinder the development and delivery of medicines and services to address unmet patient needs across the state.

Prescribers in Michigan can include physicians, dentists, veterinarians, PAs, nurse practitioners and midwives.

The Insights Association has proposed amendments to Michigan H.B. 5940 to exempt respondent incentives to prescribers for participating in pharmaceutical marketing research studies, as long as the studies are conducted by third party research companies and the sponsors are not aware of which providers participated. Similar amendments have been adopted in laws/regulation in Massachusetts (2009), Minnesota (2010), the District of Columbia (2011), New Jersey (2019) and the federal Physician Payments Sunshine Act (2010).

Why the amendment would help

Most research studies are “blinded” to protect the research from bias. The respondents, and often the interviewers, are not told who sponsored the study. Sponsors normally do not know about or choose specific respondents and are not given access to respondents’ personally identifiable information. Most importantly, research industry codes, including the [Insights Association Code of Standards and Ethics](#), forbid researchers and their clients from marketing to research study respondents.

However, the pharmaceutical industry and its regulators often fail to recognize such distinctions between marketing and marketing research, at least when it comes to compliance.

We understand and appreciate the concerns about pharmaceutical manufacturers pursuing influence with prescribers through gifts, especially in the context of the opioid crisis, but the only influence sought through respondent incentives is to encourage a difficult to reach but highly important community to participate in research.

Marketing research participation by prescribers is routinely tied to respondent incentives because of the high demands on and value of their time. Respondent incentives are clearly neither gifts designed to accrue influence, nor are they lavish. Rather, the payments are modest amounts (usually ranging from less than one hundred dollars to a few hundred per study) paid to compensate the prescribers for their time. Moreover, these incentive payments are not determined on an ad hoc or willy-nilly basis, but are instead subject to rigorous fair market value analyses performed by both pharmaceutical manufacturers’ marketing research staff and their outside research company partners.

A [study of doctors](#) found 9-in-10 general practice (92%) and specialist (93%) physicians indicated that incentives play at least some part in motivating them to participate in market research. *Less than 1-in-10 general practice (6%) and specialty (5%) physicians signified that they would participate in marketing research absent an incentive.*

Marketing research provides benefits beyond just the insights delivered to clients

- **Controlling health care costs:** Studies with doctors are an integral part of controlling costs. More and better marketing research results in cost savings as it can unveil potential flaws in drugs and treatment regimens before they pose a real risk to patients. Marketing research also helps focus limited resources on effective and necessary product and service development, technical support and education.
- **Preventing medical errors:** Marketing research helps measure comprehension of materials and differentiation of names among prescribers for drugs, which can help prevent “medical errors.”
- **Ensuring patients get needed treatments:** Marketing research studies with prescribers about their patients’ compliance with treatment regimens help determine what causes patients to avoid or cease treatment and how to encourage compliance – which in turn promotes health and longer life, as well as reduced waste of medical resources.
- **Improving acceptance and adoption of needed drugs:** Marketing research studies of how prescribers will accept and adopt new drugs are crucial to the development of new lifesaving products. If a medication has poor odds of acceptance or adoption, the manufacturer may not invest in producing it, but may learn from the research how to counteract those deficiencies with an improved product.
- **Role-playing research yields results:** Marketing research studies involving doctor-patient role playing can garner unexpected findings vital to more than just the studies’ sponsors. For example, studies have discovered that physicians often don’t describe all available options to patients, even though they claim to do so in conventional research surveys.
- **Eliminating side effects for patients:** In one case example, marketing research with doctors directly led to the reformulation of a drug to deal with its side effects. The drug fights blindness, but resulted in burning red eyes for some users. Marketing research revealed that these side effects, which were not being perfectly reported, were keeping many patients from taking the drugs (on the required schedule, or sometimes at all). Reformulation removed the side effects, saved the drug, and saved many people’s sight.
- **Improving public health in the Latino community:** Focus groups and in-depth interviews (IDIs) conducted with doctors on issues related to Type 2 diabetes in the Latino community helped manufacturers of diabetes medications and devices better tailor their communications and educational materials to make them understandable, clear, and free from dangerous mis-interpretations.¹

Bill status

Rep. Doug Wozniak (R-36) introduced H.B. 5940, with Reps. Hank Vaupel (R-47), Ben Frederick (R-85), Jeff Yaroch (R-33), and Tyrone Carter (D-06) cosponsoring. It awaits action in the House Health Policy Committee.

¹ "Public Health Benefits of Marketing Research with Doctors: A case study from California." By Carlos Garcia. June 22, 2017. <http://www.insightsassociation.org/article/public-health-benefits-marketing-research-doctors-case-study-california>