

# Coalition for Healthcare Communication

## 2007 Annual Report

- **Defense of Industry Support of Certified CME**
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**2007 was one of the most active and successful years for the Coalition. We have become a major contributor to efforts in Washington, the Courts and the press in the defense of the healthcare industries' First Amendment rights. The following recaps what was accomplished in 2007. We intend to maintain our aggressive agenda throughout 2008 and beyond.**

### **Defense of Industry Support of Certified CME**

The Coalition led efforts to highlight the public and individual health benefits of industry supported CME in the face of continuing challenges by the press, prosecutors and public policy makers, and the increasing regulation of commercial education companies by the Accreditation Council for Continuing Medical Education (ACCME). Coalition members, organized by a committee of education company volunteers, have led industry and government meetings, and spearheaded support from sister organizations, including the AMA National Task Force on Industry Collaboration., the Alliance for CME and the North American Association of Medical Education and Communication Companies (NAAMECC).

2007 ended with the Senate rejecting proposals to increase its regulation of CME, and the ACCME agreeing to develop clear standards for the its new "firewall" policy to ensure separation between the promotion and education units of multifaceted communication companies.

## **Support of Efforts to Protect Marketing Use of Prescriber Data**

The Coalition has joined with IMS, Verispan, PhRMA, and several drug companies in the defense of the use of prescriber data for marketing purposes. Beginning in 2006, many states began proposing limits on detailing and other marketing to prescribers, including the July 2006 passage of the “Prescription Restraint Law” in New Hampshire.

Although ostensibly aimed at restricting detailing of physicians, the New Hampshire legislation could have a much broader negative effect. The New Hampshire statute prohibited **all commercial** use of prescriber data, including virtually all use of such data by advertising agencies, CME providers, and journal publishers and others. However, this kind of legislative activity is not limited to just New Hampshire. As many as 25 other states have similar proposals, including California, New York, Massachusetts, Illinois, Georgia, and Texas. Vermont and Maine passed such statutes in 2007. In late December 2007, the District of Columbia passed a similar bill on a preliminary vote.

Since the passage of the New Hampshire statute the Coalition has coordinated the efforts of outside parties to support the data-gathering organizations, including PhRMA and its members and AMA, data-gathering companies Wolters Kluwer and Dendrite, and Washington trade and policy groups including Washington Legal Foundation and the American Enterprise Institute.

Aggressive court challenges quickly were filed in New Hampshire, Maine and Vermont. In early 2007, the federal district court struck down the New Hampshire statute as a violation of the First Amendment. In December 2007, the federal court in Maine struck down the Maine statute, closely following the New Hampshire ruling. The Vermont actions will be heard in early 2008 while appeals of both the New Hampshire and Maine rulings are certain to follow as the year progresses. The Coalition will continue to support these court challenges, and support others in legislative and public relations challenges to these efforts.

## **Helping to Shape Congressional Proposals to Ban or Limit Marketing Practices**

The Coalition aggressively supported industry lobbying efforts as various bills worked their way through the Congress, and will be working with PhRMA and others as the FDA develops rules and policies to implement the new law in 2008. While the Advertising Coalition, consisting of the major advertising and media trade associations, coordinated the strategic lobbying activities on Capitol Hill, the Coalition provided both legal and factual support for the efforts. For example, the Coalition enlisted a nationally recognized First Amendment scholar to write an analysis of the initial drafts of the legislation that supported the efforts by Senator Roberts to strip provisions banning DTC advertising and other marketing provisions. At the same time, the Coalition provided legal support for the substitute amendments by Senator Roberts and Congressman Townes that enabled passage of a moderate compromise. Moreover, many advertising agency personnel

provided key information to Members of the House and Senate members during critical legislative deliberations.

The Food and Drug Administration Amendments Act of 2007 is now law and contains provisions that many believe will fundamentally alter the way FDA regulates the drug industry, including all marketing. Although many of the initial drafts included comprehensive new powers for the FDA to regulate drug marketing in the name of drug safety, the final bill gives FDA significant, but more limited powers.

For example, the Congress rejected proposals to ban DTC advertising during the first two or three years after a new drug was approved, and declined to adopt automatic limits on every new drug regulating all aspects of drug delivery, marketing and use. The new statutory powers include the systematic development of new safety provisions for new drugs with significant safety concerns and older drugs where new concerns are raised. This program, called REMS for “Risk Evaluation and Mitigation Strategies,” gives the FDA new marketing and labeling powers much like the “Risk Map” programs now used by the agency. In addition, the statute gives the FDA new fee authority for voluntary review of DTC advertising, and new ability to fine companies that repeatedly violate the advertising rules.

### **Increased Coalition Presence in the Public Policy Arena**

The Coalition has increased its share of voice in the medical trade press and the policy press in Washington. We also are currently working to vastly increase our profile in the general press. We are accomplishing an increased presence in the general press through a recently instituted public relations effort supported by all the major advertising holding companies and coordinated by Rx Mosaic Health, an Omnicom company.

The new PR program is already working. Coalition positions on commercial communication issues are now being routinely solicited by the press and quoted in major media. Meanwhile, the trade journals, particularly *MMM*, *PharmaVoice*, *DTC Perspectives*, *Medical Meetings* and *Med Ad News* routinely include Coalition commentary in virtually every issue.

And, we are enjoying a dramatically increased profile in “inside the beltway” publications such as *Pink Sheet*, *RPM Report*, *FDA Week*, *RxCompliance Report*, *FDA Advertising and Promotion Manual*.

And, last but not least, the Coalition’s Website, [www.cohealthcom.org](http://www.cohealthcom.org), has become a major resource for the press and others looking for information about our industry. Our public relations program includes significant new efforts to increase further the Website’s use by our several communities.