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United States Senate

SPECIAL COMMITTEE ON AGING

WASHINGTON, DC 20510-6400

(202) 224-5364

September 30, 2008

Bill Hawkins
Chairman & Chief Executive Officer
Medtronic, Inc.
710 Medtronic Parkway
Minneapolis, MN 55432

Dear Mr. Hawkins:

The Senate Special Committee on Aging, which I chair, has been conducting a series of oversight hearings into conflicts of interest, consultant payments, and ethics-related issues as they pertain to the medical device and pharmaceutical industries. As a result of these hearings, a number of Senate co-sponsors and I have introduced the Physician Payments Sunshine Act (Sunshine Act), which seeks to provide additional transparency and reduce bias relating to financial transactions between these industries and the medical professionals whom they serve. We've already learned that in the medical device industry these consultant payments are in the hundreds of millions of dollars.

Earlier this year, your company's outside counsel provided the Committee with a written account of Medtronic's efforts to comply with the settlement agreement it reached with the United States Department of Justice (DOJ) concerning allegations that Medtronic and its subsidiary improperly compensated surgeons and physicians. That account also addressed the corporate integrity agreement (CIA) that Medtronic and its subsidiary entered into with the Office of the Inspector General of the United States Department of Health and Human Services stemming from those same allegations. In that same letter the Committee, Medtronic and its subsidiary both denied that "improper payments were made to physicians in the first place (Medtronic's agreement with DOJ does not contain any admission of liability), much less that improper payments 'have continued.'" Consequently, it was with concern that I read recent articles, in the Wall Street Journal and elsewhere, which outlined highly disturbing allegations of improper, if not illegal, payments by Medtronic to surgeons and physicians.

These continuing allegations are directly relevant to the Committee's oversight of inappropriate physician compensation practices within the medical device industry. All of the major orthopedic device companies that settled with DOJ over such allegations were required to publically reveal information related to their payments to physicians. Medtronic's response to the Committee's initial inquiry articulated no specific reasons as to why Medtronic has yet to voluntarily make the same disclosures. I'm also aware that your company provided a considerable volume of internal documents to the office of Senator Charles Grassley (R-IA), who is a co-sponsor of the Sunshine Act, and whose staff also is investigating these matters. My staff

informs me that at meetings with your firm last year, the Committee's oversight staff asked Medtronic officials and lawyers to provide us with copies of some or all of the documentation provided to Senator Grassley, but that request was not substantively followed up on by your representatives.

Given the ongoing, serious concerns publicly raised regarding the integrity and transparency of Medtronic's physician compensation practices, I request that your company both make the appropriate Medtronic officials available for interview and contemporaneously produce the following information:

1. A list of all physicians and surgeons to whom Medtronic provided compensation related to its orthopedic products.
2. An accounting of all compensation amounts and kinds provided to each physician and surgeon by Medtronic.
3. A list of all Medtronic sales representatives and other employees involved in the approval of compensation for physicians and surgeons.
4. An explanation of the circumstances that led Medtronic's former counsel to file suit against the company and how that matter was subsequently settled. This should include, but not be limited to, an accounting of the settlement amount in that case.

Your outside counsel already has informed my staff that some of the information of interest may be under court seal. However, such restrictions are not uniformly applicable to the information sought in conjunction with a Congressional investigation. Moreover, I have pending in the Senate a bill, S. 2449, the Sunshine In Litigation Act, which would require judges to consider public health and safety issues before sealing pertinent court documents of this nature.

Please respond fully with this request by Friday, October 17, 2008. Feel free to contact Jack Mitchell (224-0741) or Adam Weaver (224-7535) of the Committee staff with any questions you may have concerning this request.

Sincerely,

A handwritten signature in black ink that reads "Herb Kohl". The signature is written in a cursive, slightly slanted style.

Herb Kohl
Chairman

cc: Peter B. Slone
Buddy Menn

ATTACHMENT

GENERAL INSTRUCTIONS

1. The terms “Medtronic” and “your company” mean its corporation, or one or more of its divisions, subsidiaries or affiliates, or related entities, including any other companies or corporations with which “Medtronic” entered into a partnership, joint venture or any other business agreement or arrangement.
2. In complying with this document request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. In addition, produce documents that you have a legal right to obtain, documents that you have a right to copy or have access to, and documents that you have placed in the temporary possession, custody, or control of any third party.
3. No documents, records, data or information requested by the Committee shall be destroyed, modified, removed or otherwise made inaccessible to the Committee.
4. If the document request cannot be complied with in full, it shall be complied with to the extent possible, which shall include an explanation of why full compliance is not possible.
5. In complying with this document request, respond to each enumerated request by repeating the enumerated request and identifying the responsive document(s).
6. Each document produced shall be produced in a form that renders the document susceptible of copying.
7. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same document.
8. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances by which the document ceased to be in your possession, or control.
9. This request is continuing in nature. Any document, record, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon location or discovery subsequent thereto.

GENERAL DEFINITIONS

1. The terms “relate,” “related,” “relating,” or “regarding” as to any given subject means anything that discusses, concerns, reflects, constitutes, contains, embodies, identifies, deals with, or is any manner whatsoever pertinent to that subject, including but not limited to documents concerning the preparation of other documents.

2. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa to bring within the scope of this document request any information which might otherwise be construed to be outside its scope. The masculine includes the feminine and neuter genders to bring within the scope of this document request any information that might otherwise be construed to be outside its scope.