**Physician Payment Sunshine Act**

***Note:*** The information on this web page is based on a current understanding of the Physician Payment Sunshine Act of the Patient Protection and Affordable Health Care Act of 2012. More detailed information about the Sunshine Act is available from the Centers for Medicare and Medicaid Services.

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**Overview**

Beginning August 1, 2013, companies that manufacture drugs, medical devices and biologics will be required to comply with the Sunshine Act, a provision of the Affordable Care Act.  The Act requires that **detailed information about payments and other “transfers of value” worth over $10 from manufacturers to physicians (MDs and other providers; see Covered Recipients below) and teaching hospitals be made available to the public in 2014**.  The Act does not affect faculty members who are not physicians.

Starting on August 1, 2013, manufacturers will collect and begin to provide CMS information about such payments, including the amount and purpose, and CMS will post the information on a publicly accessible website now known as **Open Payments** beginning September 30, 2014.   Thereafter, the data will cover full calendar years (January –December) and will be posted annually on June 30th.

**Covered Recipients**

For purposes of reporting payments, the term “Covered Recipients” refers to *physicians* and *teaching hospitals*.

For the purposes of this program, a “physician” is any of the following types of professionals that are legally authorized to practice:

1. Doctor of Medicine Doctor of Podiatry
2. Doctor of Osteopathy Doctor of Optometry
3. Doctor of Dentistry Doctor of Chiropractic Medicine
4. Doctor of Dental Surgery

***Note: Medical residents are excluded from the definition of physicians for the purpose of this program.***

**Implications for WFBMC Physicians**

**(WFBMC defined as Wake Forest University Health Sciences, North Carolina Baptist Hospital, and their controlled affiliates)**

Among the many implications of the Sunshine Act is that if, acting in a private capacity, a WFBMC physician consults, serves on a scientific advisory board, or engages in other compensated activity for manufacturers of drugs, devices or biologics, details of your income and other payments (such as travel reimbursement) from those companies and the purpose of the payment will be on a publicly accessible website.  Physicians and other providers to CMS will have an opportunity to review and work with manufacturers to correct payment information and resolve disputes during a 60-day period before the information is posted.   Physicians will need to register to review the data.

***Note:******Individual physicians -- not Wake Forest Baptist Medical Center-- will be responsible for contacting manufacturers to address any discrepancies reported.***

Individuals who are not comfortable with public disclosure of their consulting relationships and income may wish to terminate consulting activity before August 1, 2013 and ensure that they do not receive payments on or after August 1, 2013.

**Voluntary Participation Encouraged for WFBMC Physicians**

Physicians are not required to register with or send any information to **Open Payments**. However, we **encourage** physicians to:

* Become familiar with the information that will be reported about healthcare providers.
* Keep records of all payments and other transfers of value received from applicable manufacturers or applicable GPOs.
* Register with CMS early in 2014 and subscribe to the listserve to receive updates regarding the program.
* Look at the payments reported by applicable manufacturers and applicable GPOs.
* Work with reporting manufacturers and GPOs to ensure correct reported payments.

**What Manufacturers are Required to Report**

Applicable manufacturers of at least one covered drug, device, biological, or medical supply **must** report **all** payments or other transfers of value provided to covered recipients, regardless of whether any particular payment or other transfer of value was related to a covered drug, device, biological, or medi­cal supply. Applicable manufacturers will be required to categorize all reportable payments as falling within one of the following natures of payment:

* Consulting fees
* Compensation for services other than consulting, including serving as faculty or as a speaker at an event other than a continuing education program
* Honoraria
* Gifts
* Entertainment
* Food and beverage
* Travel and lodging
* Education
* Research
* Charitable contributions
* Royalty or license
* Current or prospective ownership or investment interest
* Compensation for serving as faculty or as a speaker for an unaccredited and non-certified continu­ing education program
* Compensation for serving as faculty or as a speaker for an accredited or certified continuing educa­tion program
* Grants
* Space rental or facility fees (teaching hospital only)

Applicable manufacturers and applicable GPOs must also report ownership and investment interests held by physicians or their immediate family members.

**Review, Dispute and Correction Process**

Physicians, teaching hospitals, and physician owners/investors have the opportunity to review and work with the applicable manufacturers and applicable GPOs to make any necessary corrections to the infor­mation before we make it public.

Once the applicable manufacturer or applicable GPO has submitted the data file to CMS, the process is as follows:

1. CMS will give physicians and physician owners/investors 45 days to review and work with the appli­cable manufacturers or applicable GPOs to correct the information. After those 45 days, applicable manufacturers or applicable GPOs will have an additional 15 days to submit corrections based on any disputes identified by physicians, and physician owners/investors. The review and correction period starts at least 60 days before the information is made public.
2. During the review and correction period, physicians and physician owners/investors can dispute information about them that they do not think is correct.
3. If data is disputed, CMS will notify the applicable manufacturers or applicable GPOs that some of their data has been disputed, but will not mediate the dispute directly. Applicable manufacturers or applicable GPOs should work with physician and physician owner/investor to correct the information.
4. Once the dispute is resolved, the applicable manufacturers or applicable GPOs must send CMS a revised report for the correct data and re-attest that it is correct.
5. If the applicable manufacturer or applicable GPO cannot resolve the dispute with the physician or physician owner/investor and correct the data in the initial 45 days or subsequent 15 days, they should continue trying to find a resolution.

This review, dispute and correction process will impact publication as follows:

* While the review and correction system will be open year-round, only the data corrections noted dur­ing the 45-day review and correction period, and subsequent 15-day dispute resolution period, will be updated before publication.
* CMS will update data from the current and previous year at least once annually, in addition to the initial data publication that followed the data submission.

**Key Dates**

**for Initial Reporting Period**

* Applicable manufacturer and applicable GPOs must begin to collect the required data on August 1, 2013 and report the collected data through December 31 to CMS by March 31, 2014.
* On September 30, 2014, CMS will publish the reported data on a publicly available website.

**for Ongoing Reporting Period**

* Beginning in 2014, applicable manufacturer and applicable GPOs must collect the required data annually beginning January 1 and report the collected data through December 31 to CMS by March 31 the following year.
* Annually on June 30, CMS will publish the reported data on a publicly available website.

**Key Elements**

Below are some other key elements of the Sunshine Act and its implementation:

* Manufacturers must collect and provide information about **indirect** **payments** **as well as payments made directly to physicians**.  For example, if a physician is paid indirectly through a third party organization (e.g., contract research organization, travel agency), the payment will be listed as a transfer from the manufacturer to the physician.  If you are engaged in consulting under an institutional agreement between WFBMC and a company, this might be considered an indirect payment to you and might be included.
* Payments to physicians for serving as faculty or speakers for accredited Continuing Medical Education activities are not included.
* Manufacturers are responsible for reporting to CMS; physicians and teaching hospitals are not responsible for reporting to CMS.
* Manufacturers must identify physicians by NPI, so you may be asked to provide your NPI to a company that has made payments to you, whether directly or indirectly.
* At WFBMC, payments for research are made to the institution, not to individual physicians.  However, the Sunshine Act requires that physicians who are investigators on research supported by manufacturers be listed in connection with the research payments to the institution.  As we understand it, these payments will be listed in a separate research reporting section of the web site.
* Payments to physicians will be listed by physician name, not by the physician’s place of employment or appointment.

**More Information**

More ***information regarding the Sunshine Act*** is available on the [CMS website](http://www.cms.gov/Regulations-and-Guidance/Legislation/National-Physician-Payment-Transparency-Program/index.html).  Please note that CMS is still developing the process, so some implementation details may change.  To receive updates from CMS, you may register for the listserv by emailing [OPENPAYMENTS@cms.hhs.gov](mailto:OPENPAYMENTS@cms.hhs.gov).

***Faculty physicians*** who have ***questions about consulting activity or annual disclosure requirements*** may contact the Medical Center Conflict of Interest Office at [coioffice@wakehealth.edu](mailto:coioffice@wakehealth.edu) or 716-9300.