

Update to the Federal Physician Payments Sunshine Act

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On October 3, 2018, the U.S. Senate passed the final version of H.R. 6, the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act, or the “SUPPORT for Patients and Communities Act,” which will—among other things—update the federal Physician Payments Sunshine Act. The update is part of the bipartisan effort to combat the opioid epidemic, and the President is expected to sign the bill into law in the coming days. If enacted, this law will expand reporting requirements for drug manufacturers and medical device companies.

The Sunshine Act (Section 1128G of the Social Security Act) was passed in 2010 as part of the Affordable Care Act and is summarized here. The Sunshine Act requires manufacturers of covered drugs, devices, and other medical supplies to report all payments and other “transfers of value” they make to physicians and teaching hospitals. Most of the information gathered from these reports is then published by the Centers for Medicare and Medicaid Services (CMS) on the agency’s Open Payments website.

In February 2013, CMS issued a rule, described here, laying out guidelines for reporting. Covered companies were required to start tracking their payments to physicians and teaching hospitals in August of that year.

The bill would change the scope of reporting and disclosure required by the Sunshine Act in two key ways:

- First, and most importantly, the bill would expand the types of providers covered by the reporting requirements. Companies that fall under the Sunshine Act would also have to report all payments and transfers of value to physician assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, and certified nurse-midwives. These reports would be in addition to those already made regarding value transfers to physicians and teaching hospitals.
- Second, the bill would remove the provision of the Sunshine Act that omits National Provider Identifier (NPI) numbers from the information published by CMS. Currently, the Sunshine Act directs that NPI numbers be excluded from publicly available information regarding value transfers. The bill would remove this exemption and require CMS to include NPI numbers in the information it makes available to the public.

While the SUPPORT for Patients and Communities Act as a whole would become effective immediately upon its enactment, the two changes discussed above would apply only to transactions occurring on or after January 1, 2022.

The current status of H.R. 6 can be found here.

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