

July 28, 2014

The Honorable Marilyn B. Tavenner  
Administrator  
Centers for Medicare & Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Avenue SW  
Washington, D.C. 20201

Dear Administrator Tavenner:

We, the undersigned organizations, write to identify certain pressing issues related to implementation of the Physician Payments Sunshine Act (Sunshine Act). As representatives of multiple physician organizations and manufacturers that are impacted by the law, we are committed to the success of the Sunshine Act. Accordingly, we are reaching out to you collectively in the hope that, by identifying the following issues, we can work collaboratively with CMS to remedy them.

**Provide Necessary Context**

Initially, and perhaps most importantly, we note that physician and industry stakeholders have not received any information from CMS describing how context will be provided to the general public when Sunshine data is made available in September. In reviewing the Medicare Part B data released earlier this year, we note that the only information included and made available to the public was related to names and numbers with no context explaining the data. We do not believe this is an effective way to share data with the public and, in fact, can lead to confusion and misinterpretation.

This potential public confusion is why Congress mandated CMS provide context along with the Sunshine data's release. Further, multiple industry stakeholders have offered blueprints as to how context could be provided. To date, however, we have heard nothing from CMS regarding how the data will be explained. Given the importance of this outlying issue, we ask that CMS preview with physician stakeholders the proposed contextual information sought to accompany the public release of the Sunshine Act data.

**Increase Outreach, Education to Physicians**

Additionally, we understand that many physicians are not aware of the multiple requirements of the Sunshine Act, and we urge CMS to increase the amount of educational efforts and outreach to physicians. This includes more information on what will be reported, when it will be reported, what the reporting will look like, and how they can see what will be reported about them.

To be sure, we understand that CMS has hosted multiple webinars and created a fact sheet with some of this information, however, the information being provided to physicians has not been delivered in a timely manner. For example, CMS announced only on Friday, July 11 that registration in the Open Payments system would open for physicians and teaching hospitals on Monday, July 14. Similarly, this information is available alongside outdated information on the Open Payments website, which is leading to confusion among physicians and industry stakeholders. It is our understanding that many of physicians remain unaware of the Sunshine Act in general, much less the specifics regarding its timeline and public reporting process. Many physicians do not even know that they must register – twice – to review data that is being captured about them.

Further, the recent release of the proposed Physician Fee Schedule for 2015 includes additional changes to the Sunshine Act that may require industry stakeholders to disclose payments made to physicians speaking at Continuing Medical Education (CME) programs. And while many of our organizations will provide CMS detailed comments related to this proposal, we nevertheless urge CMS to evaluate the unintended consequences this change could have on the medical education landscape in the United States.

### **Simplify Physician Registration**

Finally, we want to call your attention to issues related to physician registration on the Open Payments database. We continue to encounter concern from the physician community related to the cumbersome and overly personal process required for physicians to register and preview their reported data. Physicians we have spoken to are discouraged by the need to register twice to view data that is reported about them. This places a significant burden on physicians, who already have extremely busy schedules.

Given the challenges, there is significant risk that physicians will not complete their registration. We call upon the Agency to increase their awareness efforts and also share with the provider community the number of physicians who have registered thus far. This will help us ascertain the extent to which additional efforts are needed to both increase physician awareness and potentially assist with registration.

We urge you to consider our request to provide details on the context that will be included in the data release, increase educational efforts and outreach, and simplify physician registration requirements. These actions are consistent with the intent of the Sunshine Act, and will increase awareness and understanding among the physician community.

Please feel free to contact us if we can be of additional assistance. We look forward to working with you and your team to ensure the continued success of the valuable Sunshine Act reporting program.

Sincerely,

American Academy of Allergy, Asthma, and Immunology  
American Academy of Dermatology Association  
American Academy of HIV Medicine  
American Association of Clinical Endocrinologists  
American Association of Neurological Surgeons and the Congress of Neurological Surgeons  
American Association of Orthopaedic Surgeons  
American College of Mohs Surgery  
American College of Preventive Medicine  
American College of Radiology  
American College of Surgeons  
American Congress of Obstetricians and Gynecologists  
American Gastroenterological Association  
American Osteopathic Association  
American Society of Nephrology  
American Society of Plastic Surgeons  
American Urological Association  
Association of Black Cardiologists  
Biotechnology Industry Organization

Coalition of State Rheumatology Organizations  
Congress of Neurological Surgeons  
Heart Rhythm Society  
Medical Group Management Association  
Medical Imaging & Technology Alliance  
Minnesota Center for Obesity, Metabolism and Endocrinology  
National Council of Asian Pacific Islander Physicians  
Pharmaceutical Research and Manufacturers of America