



January 27, 2009

# Fact Sheet

## The Physician Payments Sunshine Act

***Reducing the Impact of Pharmaceutical Marketing to Physicians and Promoting Appropriate Prescribing and Drug Safety***

*The pharmaceutical industry spends nearly \$30 billion annually on marketing. The majority (including samples) is spent on direct marketing to physicians (Donohue, NEJM, 2007).*

*Nationwide, prescription drug spending rose 500% (from \$40.3 billion to 200.7 billion) between 2000 and 2005 (Kaiser Family Foundation, 2007).*

**The Physician Payments Sunshine Act (S.301)** requires drug, biologic, and medical device manufacturers to report certain gifts and payments ("transfers of value") made to physicians. The information will be registered in a national and publicly accessible online database. Companies failing to report incur financial penalties.

**Introduced:** January 22, 2009 by Senator Grassley (R-IA) and Senator Kohl (D-WI). Co-Sponsor: Senator Klobuchar (D-MN). For a complete list of co-sponsors click [here](#).

### ***Does the bill limit gifts and payments?***

The bill requires public disclosure, but does not limit financial relationships.

### ***Who must report?***

All entities (and their subsidiaries and affiliates) that produce, prepare, propagate, compound, convert, process, market, or distribute drugs, devices, or medical supplies covered under Medicare, Medicaid, or SCHIP.

### ***What sort of payments count?***

S.301 requires disclosure of payments to all covered recipients including: compensation; food, entertainment or gifts; travel; consulting fees or honoraria; funding for research; funding for education; stocks or stock options; ownership or investment interest, and any other economic benefit as described by the secretary.

### ***Who is considered a 'Covered Recipient'?***

Covered recipients include all physicians and physician practices.

### ***How specific are disclosures?***

Reporting companies are required to report the receiving physician's name, address, and Medicare billing number; and the value, date and nature of the payment using standardized descriptions for the payment types listed above. Where a payment is related to marketing, education, or research specific to a covered drug, device, biological or medical supply, the name of that product must be reported. All of this information will be available to the public.

***Are there types of gifts or payments that are exempt?***

The bill exempts educational material provided for the benefit of patients, rebates and discounts, and prescription drug and device samples. In addition, the bill exempts payments until the aggregate annual total per company, per covered recipient, reaches \$100, at which point all payments (retroactively) must be disclosed.

***Where will reports be published?***

On a public, searchable website, no later than September 30, 2011.

***How often?***

Manufacturers are required to report gift and payment disclosures annually. The Secretary of Health and Human Services is further required to submit annual summary reports to Congress, as well as annual reports to each state with state-specific data.

***Does the Physicians Payment Sunshine Act affect existing state laws?***

S.301 prohibits states only from collecting identical information. States may still collect other types of information, and may take steps to limit marketing.

***What else will be disclosed?***

The bill requires disclosure of physician ownership or investment interest in an applicable manufacturer or distributor. In addition to manufacturers, group purchasing organizations must report physician ownership interest.

***What are the penalties to industry for non-compliance?***

Fines of up to \$10,000 for each transfer of value that is not reported (not to exceed \$150,000 annually) and up to \$100,000 for *knowingly* failing to report (not to exceed \$1,000,000 annually). Penalties applied will be posted on the public website.