FAQs: Physician Payments Sunshine Act

The Physician Payment Sunshine Act was designed with the objective of creating transparency of financial interests of physicians. However, it also has the potential to diminish public trust in academic and research institutions. This can occur when there are inconsistencies between information reported to the federal government versus the information disclosed to the University.

The Physician Payment Sunshine Act, under the Affordable Healthcare Act (Public Law 111-148, Section 6002), places obligations for public disclosure of payments and financial interests made to physicians by manufacturers of drugs, devices, biologicals, and medical supplies as well as group purchasing organizations (GPOs). The information has been collected by and was made publically available by the Centers for Medicare and Medicaid Services (CMS). The database will be updated by the end of 2014. Thereafter, CMS will update the database annually on June 30.

As a physician, there is information about the Act with which you should be aware. You are strongly encouraged to cooperate with CMS, manufacturers, and GPOs to ensure accurate reporting of your financial interests and payments made to you that are publically disclosed on the CMS website.

The University requires that your disclosure of non-University activities be consistent with the information reported in the CMS database. Below is information on what you must do to be in compliance with the University’s Policy on Conflict of Commitment and Interest.

1. What is required by the University in regards to the Physician Payment Sunshine Act?
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1. What is required by the University in regards to the Physician Payment Sunshine Act?

As a paid academic staff member, your University obligation is to report and seek approval for non-University financial or fiduciary interests using the Report of Non-University Activities (RNUA) form. Activities that you disclose on your RNUA form must be consistent with information reported in the CMS database when the nature of the payment requires disclosure per the University Policy on Conflict of Commitment and Interest.

Guidance on the nature of payments
The last column advises on whether the nature of payment requires disclosure on the RNUA form.

You are advised to review the information being reported about you in the CMS database. You can do that by using the CMS search tool available at: https://openpaymentsdata.cms.gov.

If you find information reported about you in the CMS database and if the nature of the activities requires reporting on the RNUA, then you should verify that you have disclosed the activity on your RNUA form; or revise your RNUA form. When the activity has not been previously approved, the Unit Executive Officer must complete a retrospective review of the activities.

As always, the University requires that you seek approval for activities prior to engaging in any non-University activities. You should update your RNUA form as needed during the year.
You must also annually disclose your significant financial interests if you are an investigator or key research personnel on an award or pending proposal for the Health and Human Services (HHS), Public Health Services (PHS), the National Institutes for Health (NIH) as well as non-federal agencies (see list of agencies) that have adopted the PHS regulations for financial conflicts of interest. The University is obligated to comply with the Department of Health and Human Services 42 CFR Part 50 and 45 CRF Part 94: Responsibility of Applicants for Promoting Objectivity in Research for which Public Health Services Funding is Sought and Responsible Prospective Contractors (August 2011). The disclosure of significant financial interests (SFI) is captured through the Significant Financial Interest-Disclosure and Management Plan: Part I (SFI-DMP: Part I) form. Your SFI disclosure must be updated within 30 days of discovering or acquiring any changes in your significant financial interests. Please see the guidelines and FAQs for additional information about this process.

2. Does the Sunshine Act apply to faculty start-up companies?

In order to avoid giving inaccurate information or advice to a faculty start-up company, the University cannot provide legal advice to faculty start-up companies on the requirements under the Sunshine Act. The Act imposes significant civil monetary penalties on applicable manufacturers and GPOs for failures to report. You are encouraged to seek independent legal advice if your company is engaged in production, preparation, etc. of a drug or a medical or biological device or supply.

3. Who is a physician under the Sunshine Act?

For the purposes of Open Payments, a “physician” is any of the following types of professionals that are legally authorized by the state to practice, regardless of whether they are Medicare, Medicaid, or Children's Health Insurance Program (CHIP) providers:

- Doctors of medicine or osteopathy
- Doctors of dental medicine or dental surgery
- Doctors of podiatric medicine
- Doctors of optometry
- Chiropractors

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

4. Can inaccurate information reported to CMS be disputed and corrected?

Yes. The University encourages you to work with the applicable manufacturer and applicable GPO to correct inaccurate information submitted by the applicable manufacturer and applicable GPO before CMS makes it public.

5. Where can I find more information about the Physician Payment Sunshine Act?


For more information about the CMS OPEN PAYMENTS and to register with CMS OPEN PAYMENTS program, please go to: http://www.cms.gov/Regulations-and-Guidance/Legislation/National-Physician-Payment-Transparency-Program/index.html
6. Other resources

News Article: Doctors’ Magical Thinking About Conflicts of Interest