

Complete Healthcare Compliance Manual

Physician Payments Sunshine Act (Affordable Care Act)

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Fast Facts

Title of law: Physician Payments Sunshine Act (PPSA), Transparency reports and reporting of physician ownership or investment interests

Categories:

- Accounting and financial reporting
- Antitrust
- Fraud and abuse

U.S. Code: 42 U.S.C. § 1320a-7h

Year enacted: 2013

Major amendments: Not applicable.

Enforcement agency: Centers for Medicare & Medicaid Services (CMS)

Link to full text of law: <https://www.govinfo.gov/content/pkg/USCODE-2011-title42/pdf/USCODE-2011-title42-chap7-subchapXI-partA-sec1320a-7h.pdf>

Applies to: Manufacturers of drugs, medical devices, and biologics.

What Is the Physician Payments Sunshine Act?

The Physician Payments Sunshine Act (PPSA), which is section 6002 of the Affordable Care Act (ACA) of 2010, requires manufacturers of drugs, medical devices, and biologics to report to the Centers for Medicare & Medicaid Services (CMS) any payments or other transfers of value made to physicians or teaching hospitals. The PPSA also requires certain manufacturers and group purchasing organizations (GPOs) to disclose physician ownership or investment interests held in those companies.^[6] This call for transparency within the physician-industry relationship is predicated on the idea that the requirement of industry to track, report, and publicly release financial data will encourage stronger ethical collaborations that will ultimately help achieve better patient care while lowering health insurance costs for covered recipients.

History

The PPSA was introduced in the U.S. Congress on September 6, 2007, by Senators Chuck Grassley and Herb Kohl. The goal of the bill was to “shed light” on the nature and extent of financial relationships between physicians and teaching hospitals and applicable manufacturers and GPOs with whom they interact. The expectations were that the bill would reveal the potential overall effect that these relationships have on patient care and rising healthcare costs. The PPSA failed as an independent bill but was signed into law as section 6002 of the ACA in 2010. The PPSA’s final rule was proposed in December 2011, and, after a public comment period, went into effect on August 1, 2013.

Related Laws

Nevada Revised Statutes § 639.570, Duty of wholesalers or manufacturers who employ person to sell or market drug, medicine, chemical, device or appliance; submission of information annually to Board; Board to report certain information to Governor and Legislature; duties of Board.

Under Nevada’s Business Practices statutes, a wholesaler or manufacturer that employs a person to sell or market a drug, medicine, chemical, device or appliance in Nevada must submit to the board annually:

- The marketing code of conduct
- Description of training program
- Description of its investigation policies
- Name of its compliance officer, and more^[7]

Federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b)

The federal Anti-Kickback Statute is a criminal law that prohibits the knowing and willful payment of “renumeration” to induce or reward patient referrals or the generation of business involving any item or service payable by federal healthcare programs (e.g., drugs, supplies, or healthcare services for Medicare or Medicaid patients). Renumeration includes anything of value, such as free rent, expensive hotel stays and meals, and excessive compensation for medical directorships or consultancies. Physicians are common targets for kickback schemes because they can be a source of referrals for fellow physicians or other healthcare providers and suppliers.^[8]

Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a

The Civil Monetary Penalties Law (CMPL) is important to healthcare professionals because violations can expose organizations to a great deal of civil liability. Healthcare organizations and officials found liable are subject to large fines and potential exclusion from federal programs. The two main provisions of the act focus on improperly filed claims and payments to induce reduction or limitations of services.

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