

## Database of perks, payments

### Law will allow patients to see value, nature of industry gifts to physicians

by **Jessica Pupillo** • Correspondent

Accepting gifts like coffee mugs, duffel bags and notepads could place a physician's name in a new public database created by the Physician Payments Sunshine provision of the Patient Protection and Affordable Care Act of 2009.

The new law, which takes effect on Jan. 1, requires manufacturers of medical products covered by Medicaid, the Children's Health Insurance Program or Medicare to report direct payments and gifts of more than \$10 to physicians or teaching hospitals. That includes knickknacks, stock options, research grants, consulting fees and travel to medical-related conferences. If gifts valued at less than \$10 reach \$100 annually, then all payments must be disclosed. The law exempts items and samples that benefit patients.

In addition to payment and gift information, drug and device manufacturers also must report the recipient's name, specialty, address, National Provider Identifier (NPI), nature and purpose of the gift, and any relation to a particular drug, device, biological or supply. All of this information, with the exception of NPI numbers, will be made available to the public through an online searchable database published by Sept. 30, 2013.

Companies will face fines of up to \$10,000 for failing to report and up to \$100,000 for knowingly failing to report, according to the law.

#### Potential conflicts on display

Many agree the law has its merits.

"There is plenty of literature that indicates that something as small as a pen or a pad of notes, or just a very modest gift, can influence the way people act about certain pharmaceuticals," said Mary E.



Dr. Fallat

Fallat, M.D., FAAP, chair of the AAP Committee on Bioethics. "There's no question that this law will take care of (drawing attention to) anything that relates to a conflict of interest."

Many physicians see this as a law whose heart is in the right place, but they may be reluctant to see their name and practice information released to a federal clearinghouse, said Mark Cicero, M.D., FAAP, lead author of "Ethics for the Pediatrician: Physician Interaction with the Pharmaceutical Industry," published in *Pediatrics in Review* (<http://pedsinreview.aappublications.org/cgi/content/full/32/1/e1>). He advises pediatricians to scrutinize any sort of gift they might get from the pharmaceutical industry since their patients may be aware of every gift they receive.



Dr. Cicero

Scott C. Denne, M.D., FAAP, chair of the AAP Committee on Pediatric Research, agreed the law is a step in the right direction.



Dr. Denne

"I think it's really important to pursue transparency here for all parties — for pharma, for physicians and for the public," Dr. Denne said. "There are rules that have been moving in this direction for a while, and I think appropriately so."

The American Medical Association (AMA) has a voluntary code that essentially limits gifts to educational items and those related to physicians' work, and eliminates monetary and recreational gifts. The Council of Medical Specialty Societies (CMSS) has published a code that restricts advertising and sponsorships of conferences. In addition, the Pharmaceutical Research and Manufacturers of America (PhRMA) updated a voluntary code in 2009 that recommends its members refrain from giving out non-educational gifts to physicians.

The Academy supports both the AMA and CMSS codes and also released its own policy statement in 2007 titled *Professionalism in Pediatrics* (<http://aap.policy.aappublications.org/cgi/reprint/pediatrics;120/4/e1123.pdf>). The AAP Committee on Bioethics also plans to develop a conflict-of-interest statement for use by individual physicians, Dr. Fallat said. Perks and payments will be addressed.

#### Possible drawbacks?

Tom Pendergrass, M.D., M.P.H., FAAP, a member of the AAP Committee on Continuing Medical Education, said he is concerned the law actually will curtail drug and device company support of physicians rather than simply improve transparency.

"The \$10 fee is bordering on the ridiculous for data collection," said Dr. Pendergrass, who is director of medical education at Seattle Children's Hospital. "More and more, we will see that impacting support for industry through CME activities. We've already seen that happen at AAP and Seattle Children's Hospital."

"If I'm the XYZ company and I have to track whether I gave an individual physician more than a fixed amount over a period of time, potentially this creates another bureaucracy," he said. "I think it's going to put another set of casts on pharmaceutical companies and what they're willing to fund and help fund. I think that's challenging for some areas. I'm not sure it's bad, but I'm sure it's challenging."

As in other medical school settings, at University of Louisville,



Dr. Pendergrass

where Dr. Fallat is a faculty member, foundations have provided opportunities for the drug and device companies to support education and research. Companies can make a donation to the university's foundation, which in turn assigns funds to research and events.

Will the new law discourage physicians from attending industry-sponsored events or other activities?

"People who are interested in innovation and being a lifelong student and improving their education will continue to attend events regardless of whether or not there are perks associated with them," Dr. Fallat said.

## RESOURCE

Read the legislative language in the Physician Payments Sunshine Act at <http://aging.senate.gov/letters/ppsabill2009.pdf>.