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Sunshine Act FAQs

What is the Sunshine Act?

The Physician Payment Sunshine Act ("Sunshine Act"), is part of the Patient Protection and Affordable Care Act of 2010. The Sunshine Act requires pharmaceutical and medical device companies to report certain payments (or other transfers of value) they make to the Federal government, including research payments. The Sunshine Act also requires companies to report any physician ownership or investment interests.

What types of payments must be reported under the Sunshine Act?

Prometheus' reporting obligation is very broad. Specifically, under the Sunshine Act, Prometheus must report payments and other transfers of value made to physicians licensed in the United States and teaching hospitals. This includes the cost of meals provided to physicians in any setting, travel expenses (even if reimbursing the physician), educational items, stocks, and certain grants. Also, we must report payments made to physicians or teaching hospitals as part of a contracted service such as speaker programs, advisory boards, consulting, and clinical trials.

How much of the cost of a meal will be allocated to the Physician?

The cost of a meal or transfer of value is calculated by taking the total cost of the food divided by the total number of attendees that eat or partake in the meal. For example, the total cost of the luncheon is \$200.00 and a physician and 9 office staff members partake in the meal. The total cost that is reportable to the physician under the Sunshine Act is \$20.00. Meals provided to nurses and office staff will not be reportable and will not be attributed to physicians. If the physician does not eat or partake in the meal, no amount or transfer of value is reported under the Sunshine Act.

Will the Sunshine Act preempt state law reporting obligations? No. Some state marketing disclosure laws require disclosure of payments to a broader group of recipients, including non-physician prescribers, nurses and office staff. Often times, this spend is attributed to the physician or other prescribers in the office. For states with these types of disclosure requirements, these payments will not be preempted by the Federal law, and thus will still be reportable to the state.

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How can I opt-out of receiving transfers of value from Prometheus?

If you are a physician and receive (or received) payments, meals, or other items of value from Prometheus from August 1, 2013 and beyond, you will be included in our Sunshine Act report. If you are not contracted with Prometheus for any speaking, advisory, consulting, research or other services, and if your interactions with Prometheus do not involve transfers of value paid for by Prometheus, either directly or indirectly, then Prometheus will not be required to report anything to your name. Please note that in some cases, Prometheus may indirectly sponsor a meal provided to program attendees, such as at a medical education event, and in that case we may be required to report this meal as a transfer of value to physician attendees. Also, a contracted service may be in the name of another entity (e.g., professional corporation), but the payment ultimately is meant for the physician and therefore Prometheus will likely report the transfer of value in the name of the physician.

If you attend a Prometheus-sponsored promotional speaker program, you have the option to opt out of receiving benefits (e.g., meals, valet parking) at the program. If you choose to opt out, you may either pay for the meal and parking on your own, or not consume anything at the program. For all program attendees who receive Prometheus' benefits at the program, Prometheus will report the attendee's name and the value received as required by federal and state disclosure laws.

In addition, you have the option to opt out of the Prometheus meal at an in-office interaction. If you opt out of the meal, Prometheus will not be required to report anything in your name for that interaction. To opt out, please do not partake in meals provided to the office and continue to interact with our sales staff providing information on Prometheus products.

If I have a question about the data that Prometheus has reported, what can I do?

If you have any questions about the Sunshine Act, Open Payments or published data, please contact us by email at sunshine@prometheuslabs.com.

How are reporting disputes resolved?

The Centers for Medicare and Medicaid Services (CMS) has provided physicians with access to a secure website so they can review the payments and transfers of value attributed to them and dispute them if necessary.

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We stand by our commitment to transparency and our rigorous data-collection efforts. But we also recognize what a complex undertaking it is to track and report this volume of data. Where disputes or discrepancies related to what has been reported or published are brought to our attention, we will work quickly with the individuals or institutions involved to provide additional detail and resolve any discrepancies and provide CMS with a revised submission, as appropriate.

For more information about the Sunshine Act and the Open Payments Website, visit www.cms.gov.

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CMS has established a public website called “National Physician Payment Transparency Program: OPEN PAYMENTS,” which can be viewed at <http://go.cms.gov/openpayments>. This website provides helpful information, including an overview of the program, a description of how the program works, fact sheets for physicians and teaching hospitals, and a Frequently Asked Questions link.

Please note: The content contained in this document should not be construed as legal advice and is subject to change at any time pending further guidance from CMS.

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