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Client Alert: Sunshine Act Payment Reporting Expands to Physician Assistants and Advanced Practice Registered Nurses

INDUSTRY SECTOR

Health Care

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On October 3, 2018, the U.S. Congress passed the **Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act** (“SUPPORT Act”). If enacted, as of January 1, 2022, manufacturers of covered drugs, devices, and medical supplies (“Manufacturers”) under the **Physician Payments Sunshine Act** (“Sunshine Act”) will be required to track and report to the Secretary of the U.S. Department of Health & Human Services payments or transfers of value (e.g., consulting fees, gifts, charitable contributions, research grants, and honoraria for speaking events) to physician assistants and advanced practice registered nurses. Currently, applicable Manufacturers are only required to report payments and transfers of value given to physicians and teaching hospitals.

Enacted in 2010 as part of the Affordable Care Act, the Sunshine Act requires applicable Manufacturers to track and publicly report payments and other transfers of value that they make to “covered recipients,” defined as physicians and teaching hospitals, unless otherwise excepted from reporting. The SUPPORT Act will expand the definition of “covered recipients” to also include physician assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, and certified nurse-midwives. Thus,

physician assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, and certified nurse-midwives need to be keeping in mind that certain direct or indirect payments and transfers of value from applicable Manufacturers may soon be made publicly available and searchable. Further, the SUPPORT Act will expand the Sunshine Act reporting requirements by lifting the prohibition on making the covered recipients' National Provider Identifier ("NPI") numbers publicly available.

The expansion of the Sunshine Act will apply to information reported on or after January 1, 2022. When receiving payments or transfers of value from applicable Manufacturers, Practitioners not currently subject to the Sunshine Act reporting requirements need to keep in mind that such transactions may be made publicly available in the future. Also, in the interim, affected Manufacturers should update their systems for tracking payments or transfers of value to ensure they encompass the newly covered practitioner types and provide training updates for employees affected by the new requirement.

The current status of the SUPPORT Act may be found here:

<https://www.congress.gov/bill/115th-congress/house-bill/6/actions>.

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