New Bill Would Expand the Sunshine Act to Cover Physician Assistants and Advance Practice Nurses

Tuesday, June 5, 2018

Late last month, Senators Grassley (R-IA), Brown (D-OH), and Blumenthal (D-CT) introduced the *Fighting the Opioid Epidemic with Sunshine Act*, a bill that would expand Physician Payment Sunshine Act reporting requirements to cover payments and other transfers of value made to advance practice nurses and physician assistants. As indicated in Senator Grassley’s announcement of the bill, the Senators are tying the expansion of the Sunshine Act to addressing the opioid epidemic. Applicable manufacturers who are required to report Sunshine Act data through the Open Payments system should follow this bill. As Congress continues to consider opioid issues, this bill could be included in a broader package of legislation.

Currently, the Sunshine Act requires reporting of payments and transfers of value to physicians (as defined at 42 U.S.C. § 1395x(r)) and teaching hospitals. The definition of a physician includes doctors of medicine and osteopathy as well as dentists, but not mid-level providers like physician assistants and advance practice nurses who also have prescriptive authority under most states’ laws. The bill would expand the definition of a “covered recipient” to include physician assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, and certified nurse-midwives.

If the bill were to pass, applicable manufacturers would need to update their Sunshine Act reporting systems and procedures to capture and track information about payments and transfers of value to these new provider types. The bill would make these changes effective for data gathered in 2019 and reported in 2020. Additionally, the bill includes a sunset on the exclusion of NPI information from the information made publicly available in the annual release of Open Payments data. Currently, applicable manufacturers report a covered recipient’s NPI as part of their data submission, but the NPI is not included in the publicly available reports of payments.

The opioid epidemic continues to be a key issue in Washington. Even stakeholders who are not directly involved in opioid-related issues should be aware of how opioid-driven policy changes may impact them.

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