

# Shedding Light on Nurse Practitioner Prescribing

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## ABSTRACT

Transparency initiatives in society are growing. In the realm of prescribing, recent federal, state, and private initiatives are shedding light on health care provider practice and payments. These transparency initiatives commonly include information on nurse practitioners. Recently implemented federal and state Sunshine laws are discussed. Also, the newly released Medicare Part D data, which include nurse practitioner identified information, are described in the context of the federal data release as well as the news outlets that are utilizing this watershed of information to inform the public on health care provider practice.

**Keywords:** Medicare Part D, nurse practitioner, pharmaceutical industry, prescribing, Sunshine laws, transparency

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We live in a transparent world, whether we like it or not. In recent years, society, both explicitly and implicitly, has moved toward increasing transparency in multiple realms, such as science, business, government, and politics. This growing cultural shift toward transparency over the past 50 years has been seen in such noteworthy initiatives such as WikiLeaks or the Obama Administration's Open Government Program. This trend is also noted in health care, from the movement toward acknowledging fault in medical errors, to multiple public data sources on health care provider practices. This paper addresses some of the recent trends in federal, state, and private initiatives that seek to shed light on health care provider practice in general, and includes information on nurse practitioners (NPs) more specifically. Policy and practice implications of current transparency initiatives are highlighted.

## THE PATIENT PROTECTION AND AFFORDABLE CARE ACT: SUNSHINE PROVISIONS

In 2010, Congress passed the landmark Patient Protection and Affordable Care Act. One less well-known provision of the law, the Sunshine Act (Section 6002) was included in order to increase the transparency of financial relationships between health care providers and the pharmaceutical and

medical device industries.<sup>1</sup> The Sunshine Act grew out of an increasing concern regarding the financial relationships that physicians have with industry. Although some of these relationships are thought to be beneficial and contribute to the development of new drugs and devices, other relationships can generate conflicts of interest in both research and practice. Numerous studies over the past 20 years have reported high levels of financial interaction between physicians and the pharmaceutical industry.<sup>2-5</sup> Broadly, these studies demonstrate that payments in the form of speakers fees, meals, consulting, and sponsored continuing education programs impact clinical decision-making and that such interactions between clinicians and industry can lead to biased prescribing practices and conflicts of interest.<sup>6,7</sup>

The Sunshine Act requires that all pharmaceutical and medical device manufacturers providing products via Medicare, Medicaid, and the Children's Health Insurance Program disclose payments made to hospitals and all licensed physicians (doctors of medicine, osteopathy, dentists, podiatrists, optometrists, and chiropractors). These payments are reported to the Center for Medicare and Medicaid Services (CMS) and are available on the public website Open Payments ([www.cms.gov/OpenPayments/](http://www.cms.gov/OpenPayments/)). The

types of payments that are reportable include general payments, such as speakers' fees, honoraria, travel and entertainment expenses, food, and education. Payments of < \$10, unless over the course of a year exceeding \$100, are exempt. Investment interests and research payments are also included.

It is important to note that other health care professionals who have prescriptive authority, such as NPs, physician assistants (PAs), psychologists, and pharmacists (in designated states), are not included in the statute. The exclusion of these professionals has generated broad concern for several reasons. NPs and other prescribers have been described as being vulnerable or "soft targets" to industry's promotional activities, and flying "under the radar" of educational initiatives that seek to mitigate conflicts of interests between industry and prescribers.<sup>8,9</sup> Also, the omission of data on other prescribing clinicians may incentivize manufacturers to shift financial relationships to these other prescribers.<sup>10</sup> Moreover, as transparency expands around the financial transactions between physicians and industry, other prescribers who are not included in the law may become more vulnerable to the conflicts of interest that have heretofore plagued physician/industry relationships.<sup>11</sup>

### Federal Data Surprises

Despite the fact that NPs, PAs, and other prescribers were not included in the federal Sunshine statute, many manufacturers, nonetheless, are reporting payments made to these prescribers. This information is publically available on the CMS Open Payments website. NPs and PAs are listed together in 1 category: Physician Assistants & Advance Practice Nursing Providers/Nurse Practitioners. Additional designations are listed by specialty, namely Adult, Family, Acute, Pediatric, Psych/Mental Health, Women's Health, and Neonatal. The initial data (August to December 2013) were released in 2014, and the full data for 2014 were released on June 30, 2015.

Importantly, the data disclose specific identifying information, such as name, workplace address, and specialty. The data also include the total dollar amount that the individual has received; what the payment covered, such as food and beverage, travel, speaking fees, consulting, etc; and the drug or

medical devices being promoted, along with the name of the manufacturer. It is important to note that, although this broad category does not differentiate NPs from PAs, the information is readily available on the internet with a simple Google search of the clinician's name.

Although the information provided in the Open Payment website is very specific and detailed, it is not comprehensive and does not include information from all manufacturers. Notably, a number of larger companies, such as Pfizer, Eli Lilly, and Boehringer Ingelheim, are not included on the list of manufacturers that provided payments to NPs and PAs. It is likely that they chose not to report NP and PA data as it was not their legal responsibility to do so. For the companies that did choose to submit payment information for NPs and PAs, the reasons for doing so can only be postulated. It may be due in part to a companies' interest in total transparency of payments made to prescribers, or may simply be a result of the difficulties in teasing out provider designations. It is important to note, however, that CMS designated this provider type in their data because provider designations were based on the federal government taxonomy codes for health care professionals (CMS, personal communication, July 9, 2015).

Embedded in these data were 1,711 reports of payments made to NPs and PAs in 2013 and 1,618 reports of payments made in 2014. The total amounts reported in the data were \$82,843 for 2013 (5 months) and \$75,567.59 for 2014. However, the average amount paid to these providers was \$47.14, with the vast majority of payments categorized under Food and Beverage. Also, there were errors noted in the data because some of the covered recipients, while being identified as NPs or PAs, were actually physicians.

On Oct. 7, 2015 Senators Grassley (R-Iowa) and Blumenthal (D-Connecticut) introduced Senate Bill S. 2153, an amendment that would require industry to include information regarding payments made to physician assistants, nurse practitioners, and other advance practice nurses in transparency reports submitted to the Center for Medicare and Medicaid, Open Payments website.

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