

June 9, 2015

The Honorable Paul Ryan
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Sander Levin
Ranking Member
Committee on Ways and Means
House of Representatives
Washington, DC 20515

ATTN: Matt Hoffman, Melanie Egorin, Amy Hall

RE: Section 3041 of H.R.6, The 21st Century Cures Act

Dear Chairman Ryan and Ranking Member Levin:

The 21st Century Cures Act legislation contains language that seeks to weaken the Physician Payments Sunshine Act by exempting the reporting of payments to physicians for continuing medical education (CME) programs and journal articles.

As physicians dedicated to ensuring that patients receive the highest and most effective quality of care, we ask that you not allow the transparency reporting requirements in the Sunshine Act to be undermined. The proposed *educational purposes exemption* language in the 21st Century Cures draft would create significant and troubling reporting loopholes by permitting the marketing and promotion of products to physicians without any of the transparency and accountability that the Sunshine Act was designed to provide.

The Sunshine Act was created by Congress to make the financial relationships between physicians and medical device and pharmaceutical companies more transparent in order to improve patient care and contain rising health care costs. This landmark legislation recognized that while patients benefit from their doctor's ongoing access to the latest innovations and improvements in clinical care, clinical decision making and inappropriate or unnecessary prescribing choices can be influenced by the nature of relationships between industry and health care providers. Not only is objective and unbiased continuing education essential for doctors and patients alike, but at least equally important is knowing who is paying whom either directly or through such means as "unrestricted grants" with monies flowing through third parties.

There is a growing trend toward transparency and responsible health care spending across the U.S. health care system, driven by public acknowledgement that drug and medical device industries spend tens of billions of dollars per year to influence a physician's choice of products through marketing¹. The effects of pharmaceutical marketing on health care provider behaviors and choices are similarly well-established^{2,3}, and exempting continuing medical education payments from future transparency reporting will weaken the Sunshine Act and erode its ability to protect consumers from medical conflicts of interest.

¹ MA Gagnon, Joel Lexchin, The cost of pushing pills: A new estimate of pharmaceutical promotion expenditures in the united states. PLoS Med. 2008;5:e1

² A. Wazana, Physicians and the Pharmaceutical Industry: Is a Gift Ever Just a Gift? JAMA. 2000; 283(3)

³ Dana J, Loewenstein, G. JAMA. 2003; 290

A recent news investigation found that in 2013 almost 25 percent of the top-prescribing physicians reimbursed by Medicare received consulting fees or other financial benefits from the companies that manufactured the drugs they were prescribing⁴. This timely analysis underscores how essential it is for consumers and policymakers to understand the extent and nature of the financial ties between physicians and drug and device companies.

Medical products are central to modern health care, and academic-industry collaboration is vital to their development. At the same time, it is essential that the use of these products be guided by sound evidence and good science. Every patient deserves the safest, most effective treatment, and now is not the time to roll back the openness and transparency fostered by the Sunshine Act.

Sincerely,

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CC: U.S. Senator Chuck Grassley, Attn: Rodney Whitlock; U.S. Senator Richard Blumenthal, Attn:
Lauren Jee & Laurel Sakai

⁴ Bob Herman, Drugmakers funnel payments to high-prescribing doctors, Modern Healthcare, May 23, 2015, <http://www.modernhealthcare.com/article/20150523/MAGAZINE/305239987/drugmakers-funnel-payments-to-high-prescribing-doctors>