

The Honorable Marilyn Tavenner  
Administrator  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Administrator Tavenner:

As stakeholders in the health care community representing an accredited provider of continuing medical education (CME), we write to voice serious reservations about the Centers for Medicare and Medicaid Services (CMS) proposed policy change that would fundamentally undermine the Sunshine Acts reporting exemption for accredited CME.

Section 403.904(g)(1) of the Act provides several specific, essential protections for accredited CME, which enable these activities to facilitate improved clinician knowledge and competence and better patient care and outcomes. Although CMS signaled their interest in expanding the number of continuing education (CE) accrediting agencies that would qualify for this exemption, by eliminating the section which currently names the five recognized bodies, this action would produce the reverse effect.

Eliminating the Acts current CME exemption by redefining CME payments as indirect payments would deter physician participation in CME activities because they would have to parse increasingly opaque criteria for whether their participation was reportable. It would also diminish the impact of the CME enterprise because of greater uncertainty in developing high quality programs.

The new, proposed rule would include a preamble that establishes a completely unworkable awareness standard whereby applicable manufacturers would have no reporting obligation so long as they do not learn the identities of covered recipients within the 18 months following an activity's conclusion. With all due respect, under what possible scenario could the applicable manufacturers not learn about these activities (and their faculty) when the CME accredited providers must publicly promote the activity to a relevant audience?

Continuing medical education remains a vital component of our health care system, permitting our nation's clinicians to remain up to date with the latest in medical science. Accredited CME incorporates strong criteria to ensure the education provided is evidence-based and scientifically rooted, guaranteeing that any supporter bias, commercial or otherwise, is eliminated from the curriculum.

CMS' February 2013 Final Rule on Sunshine Act implementation created a bright line "CME exemption" that clearly established how physician participants could present at, and attend, accredited continuing education programs without risking the stigma that accompanies a listing in the Open Payments system.

The Annenberg Center for Health Sciences at Eisenhower (ACHS) has a long and proud history creating certified CE/CME activities that serve the professional development needs of physicians and other health care disciplines. Since 1982, the Annenberg Center has worked diligently to address clinicians continuing education needs, all in the service of better patient care and population outcomes.

Our position is informed by a clear and first-hand knowledge of how CE/CME works and the practical realities of serving this diverse professional community. We urge you to retain the safe harbor for physicians and CME, as currently constituted in the February 2013 Final Rule, so that we can continue to deliver the highest quality continuing education for our clinician learners and the patients they care for.

Sincerely,

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