



## **Support S.2978, a Bill to Differentiate Independent CME Support from Promotional Activities Under the Sunshine Act**

The Protect Continuing Physician Education and Patient Care Act (S. 2978) is a bill introduced by Sen. John Barrasso (R-WY) – mirroring a bipartisan effort in the House (H.R. 293) – to exempt continuing medical education (CME) and certain educational materials from the reporting requirements of the Physician Payment Sunshine Act. While the Sunshine Act intended to make payments to physicians more transparent, rulemaking from the Centers for Medicare and Medicaid Services' (CMS) has reached beyond the intent of Congress, calling into question whether accredited, independent CME activities could be subject to the law's reporting requirements, thereby making them less accessible to physicians and creating the false appearance of industry bias.

### **The Sunshine Act's CME Exemption is Vital to Improving Patient Outcomes**

- As part of their career-long educational process, physicians rely on CME to take advantage of the growing array of diagnostic and treatment options.
- Many therapies and treatments that are utilized today—and in some cases, the diseases themselves (ex. HIV/AIDS, Ebola)—did not even exist when many practicing physicians were in medical school.
- Academic studies have consistently shown that physicians who participate in CME events are significantly more likely to provide “evidence-based care” than nonparticipants, resulting in improved patient outcomes.
  - Ex. A report published in the *Annals of Family Medicine* found that heart disease patients whose general practitioners participated in an interactive, case-based CME program had a significantly reduced risk of death compared with those whose doctors didn't receive the education.
- Accredited CME abides by strict standards to avoid potential conflicts of interest, and to ensure that commercial supporters have no influence over a program's content or faculty.
- A requirement for CME-related payments to be reported in the Sunshine Act database will cause many leaders in their field to forego participation in CME, rather than have to answer questions related to the “transfers of value” they were reported to have received.

### **Background**

The Physician Payment Sunshine Act was first introduced in 2007 by Senators Charles Grassley (R-IA) and Herb Kohl (D-WI), and was later incorporated into law as a part of the Affordable Care Act. While the Sunshine Act was designed to shed “light” on potential conflicts of interest, it was never the intent of Congress to expand the public reporting requirements to include transactions related to the provision of CME. Specifically, the Sunshine Act protected CME by excluding coverage of indirect payments to “covered recipients” by “applicable manufacturers,” such as industry contributions to CME programs.

Unexpectedly, in a December 2011 proposed rule, CMS indicated that they would rely on a “catch-all” provision in the Sunshine Act to require reporting for most CME providers. While CMS never finalized this proposal, the agency has advanced a variety of different rules around reporting for CME that has confounded stakeholders, and has left CME providers with many questions about what information they are required to collect. And with the current rule on CME payment disclosures scheduled to take effect in 2016, with reporting to begin in 2017, there is a limited window of time to act before speakers and attendees at educational events will be directly impacted by CMS' indecision.

*The CME Coalition represents a collection of continuing medical education provider companies, in addition to other supporters of CME and the vital role it plays in our health care system. Our member organizations manage and support development of healthcare continuing education programs that impact more than 500,000 physicians, nurses and pharmacists annually.*