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**CME Providers Template Language for the Sunshine Act**

As an ACCME-accredited provider [**insert other relevant accreditations**], [**CME Provider**] is required to adopt and abide by the ACCME Standards for Commercial Support (SCS), which are designed to ensure that continuing education (CE) programs and activities are independent and free of commercial bias. As a result, [**CME Provider**] has long maintained stringent policies and procedures, consistent with the SCS, to restrict our interactions with commercial supporters.

Consistent with the ACCME SCS, [**CME Provider**] strictly prohibits any commercial supporter (including any and all applicable manufacturers) from having any direct or indirect influence or control with respect to the content, faculty, speakers, or attendees of an ACCME-accredited educational program or activity. Therefore, we believe that all ACCME-accredited programs or activities provided by [**CME Provider**] (and/or its educational partners), including online or enduring educational programs, will not meet the definition of an indirect payment and should be exempt from reporting under the Physician Payments Sunshine Act (“Sunshine Act” or “Open Payments”). This conclusion is consistent with the October 2014 final regulations and recent guidance issued by the Centers for Medicare and Medicaid Services (CMS).

 Specifically, CMS concluded in October 2014 that “payments or other transfers of value, including payments made to physician covered recipients for purposes of attending or speaking at continuing education events, which do not meet the definition of an indirect payment as defined at § 403.902 are **not reportable**” (emphasis added). Further, CMS emphasized that CE-related payments are “not reportable regardless” of whether the manufacturer “learns the identity of the covered recipient” in the allotted timeframe “because the payment or transfer of value did not meet the definition of an indirect payment.”

With respect to physician speakers or faculty for CE programs or activities, CMS clarified that when an applicable manufacturer “provides funding to a continuing education provider, but does not either select or pay the covered recipient speaker directly, or provide the continuing education provider with a distinct, identifiable set of covered recipients to be considered as speakers for the continuing education program, CMS will consider those payments **to be excluded from reporting** under § 403.904(i)(1)” (emphasis added).

 With respect to physician attendees at CE programs or activities, CMS further clarified that “tuition fees provided to physician attendees that have been generally subsidized at continuing education events by manufacturers **are not expected to be reported**,” unless the manufacturer requires, instructs, or directs the subsidized tuition fee “to go to a specific physician attendee” (emphasis added).

 In both cases, CMS clarified and reiterated that when an “applicable manufacturer conveys ‘full discretion’ to the continuing education provider, **those payments are outside the scope of the rule**” (emphasis added). As noted above, the ACCME mandates that commercial supporters convey full discretion to CE providers to ensure that all decisions regarding the content, faculty, speakers, and attendees are made free from the control of a commercial supporter. Consistent with these standards, [**CME Provider**] strictly prohibits any commercial supporter from having any direct or indirect influence or control with respect to the content, faculty, speakers, or attendees of an ACCME-accredited educational program or activity. Under no circumstances can a commercial supporter require, instruct, direct or otherwise cause [**CME Provider**] to use particular physician speakers or faculty or invite specific physician attendees for a CE program or activity.

Therefore, while each company must make its own determination as to the reportability of specific payments, we believe that ACCME-accredited programs or activities provided by [**CME Provider**] (and/or its educational partners) should not meet the definition of a reportable payment under the Physician Payments Sunshine Act (“Sunshine Act” or “Open Payments”).