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Health Bills Aim a Light on Doctors' Conflicts

By NATASHA SINGER

As part of the health care overhaul under consideration by Congress, lawmakers have included so-called sunshine provisions intended to shed light on the financial relationships between the medical industry and doctors.

The targets are common business practices like drug company payments to doctors for speeches and consulting services, which have the potential to influence patient care and drive up the nation's medical bills.

But if previous attempts by state legislatures, federal agencies and academic [hospitals](#) are any indication, such sunshine efforts are all too vulnerable to cloud cover.

Currently, the health overhaul bill in the House and one of two health bills in the Senate would require the makers of drugs, medical devices and medical supplies to file annual reports to the government about their financial ties to doctors. The legislation would also require the establishment of an online public database that patients could search, to see if their own physicians had been paid by the companies whose products the doctors prescribed.

Some researchers who study medical conflicts of interest worry, however, that the rules in any final health care legislation may not be comprehensive or ironclad enough to create meaningful disclosure. They cite instances of doctors who, despite strict disclosure policies by their academic employers or the [National Institutes of Health](#), failed to report payments from industry.

"The reason it's called sunshine is because you want it clear, you don't want it opaque, you don't want it overcast," said Dr. Bernard Lo, a professor of medicine and director of the medical ethics program at the medical school at the [University of California, San Francisco](#).

Dr. Lo served as chairman of a committee that earlier this year [issued a report](#) from the [Institute of Medicine](#), a nonprofit national public policy advisory group. The report called on Congress to mandate industry disclosure of payments to all kinds of health care providers, medical researchers, medical institutions, professional medical associations, industry-sponsored foundations and disease advocacy groups.

Even though the report said the public could benefit when doctors and researchers collaborated with the industry to develop new and effective products, Dr. Lo said there needed to be a complete national disclosure system — so the public could judge whether such relationships exerted too much influence on patient care. Dr. Lo said he could not comment on specific legislation pending in Congress. But in general, he said, incomplete disclosures can open loopholes for makers of drugs and devices.

"There is an incentive for them to make payments that are not going to have to be disclosed," Dr. Lo said.

The sunshine provisions in the Senate Finance Committee's [health bill](#), for example, would require public disclosure of industry payments to doctors and teaching hospitals — but not to people like nurses and biomedical researchers or groups like professional medical associations. The bill would also require disclosure of doctors' ownership stakes in medical facilities and medical products companies.

The Senate provisions were originally introduced in 2007 as a stand-alone [“sunshine” bill](#) by [Charles E. Grassley](#), the Iowa Republican, and Herb Kohl, the Wisconsin Democrat, senators who have been investigating industry influence on the practice of medicine. The bill concentrates on payments to physicians because they are the medical professionals with whom patients have direct links, a staff person for Senator Kohl said.

But if the sunshine initiative is passed and Congress enacts the doctor provisions, Mr. Grassley would be open to expanding the payment disclosure requirements to other medical players, a spokeswoman for the senator said.

The [health overhaul effort in the House](#) goes further, calling for public disclosure of industry payments to a wide array of medical entities and medical professionals — a group as diverse as physicians, pharmacists, biomedical researchers, professional medical associations and health insurers.

“All of these groups and representatives are making determinations as to what procedures and drugs will be used,” Pete Stark, a House Democrat from California, said in a recent phone interview.

Mr. Stark is responsible for an anti-kickback law, known as the Stark law, which prohibits a physician from referring a [Medicare](#) or [Medicaid](#) patient to medical centers in which the doctor has a financial stake.

Sunshine provisions that require companies to disclose payments only to doctors could leave loopholes, Mr. Stark said, allowing companies, for example, to give rebates to outpatient clinics to favor certain medical products over others.

“It has become an amazing subculture in the medical system as to how you can get kickbacks,” Mr. Stark said.

[AdvaMed](#), the trade association for device makers, said its members supported the Senate version of a sunshine law.

“The physician relationships are the ones the public has the keenest interest in understanding,” said Christopher L. White, AdvaMed’s general counsel.

In response to a query from a reporter, the drug industry’s trade group, the [Pharmaceutical Research and Manufacturers of America](#), e-mailed a statement, saying that any federal legislation requiring payment disclosures must be written in a way that did not imply that industry relationships with health care providers were automatically inappropriate.

Some researchers who study medical conflicts of interest said they hoped a federal database would be easier to use and offer more detailed information than the few doctor payment listings now available to the public.

States like Minnesota and Vermont require drug companies to report payments to physicians. And this year drug companies like Eli Lilly and Merck have introduced their own Web sites listing fees paid to doctors.

There have been some apparent successes.

In 2007, for example, the [federal government accused](#) a handful of device makers of paying orthopedic surgeons to use certain brands of hip and [knee replacement](#) implants. As part of a settlement with the government, the companies were required to publicly disclose information about their payments to doctors. Under the spotlight of public reporting, the total payments to doctors by these companies dropped to \$105 million in 2008, from \$272 million in 2007.

But Lisa A. Bero, a professor of health policy at the medical school of the University of California, San Francisco, said disclosure requirements often omitted information that could help clarify the relationship between physicians and the treatments the doctors prescribe. Omissions have included the brand names of medical products for which doctors receive speaking fees and descriptions about the work for which doctors received consulting fees, she said.

At the end of July, for example, the drug giant [Eli Lilly](#) created an [online database](#) that lists the company's payments by the name of the health care provider, the provider's city and state, the type of service performed and the amount of the payment.

The database is [part of an agreement](#) with the federal government to resolve charges that Lilly illegally marketed the antipsychotic drug Zyprexa. For the initial phase of the database, Lilly listed only the categories of information required by the agreement, although the company says it plans to expand the data. But for now, the database excludes information on which drug brands the doctors lectured or consulted about, or their academic or hospital affiliations.

The registry, which so far covers the first half of this year, is searchable. But it can be viewed and printed only screen by screen; that means it would take a person hours to add up the number of doctors or payments by hand.

Carole Puls, a spokeswoman for Lilly, said payments in the first half amounted to about \$44.6 million and involved 3,971 health care providers.

Ms. Puls said Lilly was also the first drug maker to publicly report its [educational grants](#) and data from its [clinical trials](#).

"We continue to support transparency," she said. "We think it is integral to rebuilding trust in our industry."

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