

Sunshine Act Update: Physicians and teaching hospital representatives will be able to begin registration in the Center for Medicare and Medicaid Services (CMS) Enterprise Portal beginning June 1; see “Open Payments” at CMS website. The Sunshine Act requires all applicable manufacturers of drugs, devices, biological or medical supplies (“Applicable Manufacturers”) and group purchasing organizations (“GPOs”) to report to CMS about payments and other transfers of value they made to physicians and teaching hospitals. CMS is required under the law to compile and publish the data on a public website. Physicians are not required to register with CMS, but are encouraged to do so in order to be able to review the data submitted about them and to ensure that the information is accurate and complete, and if not, to dispute the information. For information go to the CMS website: <http://ow.ly/y6iXU>.

Medicare Overpaid Billions for Office Visits and Evaluations, says OIG: Medicare spent \$6.7 billion for office visits and other patient evaluations in 2010, according to a new report from the Office of the Inspector General of the U.S. Department of Health and Human Services. But in its reply to the findings, the Centers for Medicare and Medicaid Services, which runs Medicare, said it does not plan to review the billings of doctors who almost always charge for the most-expensive visits because it is not cost-effective for CMS to do so. The inspector general’s report estimates that overpayments account for 21 percent of the \$32.3 billion spent on evaluation and management (E&M) services in 2010. The E&M category includes office visits, emergency room assessments and inpatient hospital evaluations. This is the second time that the inspector general has singled out this area for more scrutiny. In 2012, the watchdog said physicians had increasingly billed Medicare for more intense – and more expensive – office visits over time. But that did not prove the claims were improper. (Source: Charles Ornstein, *ProPublica* via Dr. Joseph Borreggine).

AMA Adopts Policy on Telemedicine Requiring In-State Licensure: The American Medical Association adopted a controversial policy on telemedicine this month. The policy recommends that physicians be licensed in the state where the patient is receiving treatment and even requires face-to-face examinations prior to the continuation of treatment via telemedicine in some scenarios. The policy justifies this requirement by citing the need for a “valid patient-physician relationship” and indicating that such a valid relationship can only be formed with an initial face-to-face encounter. The AMA policy also supports a recent policy adopted by the Federation of State Medical Boards that contends that the point of care is the patient’s location, not the physician’s location. (Sources: Andis Robeznieks, AMA telemedicine policy echoes controversial state boards’ view, *Modern Healthcare*, June 12, 2012; Dan Bowman, AMA telemedicine policy emphasizes in-state licensure, in-person visits, *FierceHealthIT*, June 12, 2012.)

NYS DOH to Pursue Misconduct Charges Against Physicians who Fail to Register: The Medical Society of the State of New York (MSSNY) has received notice from NYS DOH that the Office of Professional Medical Conduct (OPMC) will shortly bring professional misconduct charges against 12 physicians throughout the state for failing to update their physician profiles. Pursuant to the NY Public Health Law, a physician must report information to the NYS DOH for inclusion in the Physician Profile and as a condition for registration renewal must update his/her profile within six months prior to the expiration date of the physician’s registration period. MSSNY requested that NYS DOH provide additional education before bringing misconduct charges against any physician, but NYS DOH stated that it has worked for over a year to educate physicians concerning their responsibility to update their physician profiles, and because of the continuing failure or refusal of some physicians to update their profiles, NYS DOH believes it has no recourse but to start bringing professional misconduct charges against some physicians. For additional information regarding the Physician Profile requirement, see NY StatLaw January 2014 and the NYS DOH website: <http://ow.ly/y6je2>.

For more information on the above items, contact Kern Augustine Conroy & Schoppmann, P.C. at 1-800-445-0954 or via email at info@DrLaw.com.



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