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PROFESSION

Early "sunshine" laws show little effect on prescribing

States with pharmaceutical-payment transparency legislation saw no substantial increase in physician orders for generic medications.

By KEVIN B. O'REILLY, *amednews staff*. Posted June 11, 2012.

Two states that require pharmaceutical companies to report how much they spend on marketing their products saw little shift away from brand-name drugs in doctors' prescribing habits, said a study in the May 28 *Archives of Internal Medicine*.

The findings come as the Centers for Medicare & Medicaid Services works to address more than 300 responses from physician organizations, drugmakers and others to its proposed rule to implement the Physician Payments Sunshine Act that was included in the 2010 health-system reform law. In May, CMS announced that federal requirements for medical industry firms to collect data on payments to doctors would not begin until 2013. They had been set to start this year.

Maine and West Virginia enacted payment-disclosure legislation in 2004. To study the effect of these laws, researchers compared prescribing within two classes of drugs for which there were branded and generic options that were highly substitutable — selective serotonin reuptake inhibitors, used in treating depression, and lipid-lowering statins.

"Pharmaceutical companies like to give doctors money for talking and for travel, and there is some belief among policymakers that these payments influence prescribing," said Genevieve Pham-Kanter, PhD, the study's lead author and a research fellow at Harvard University and Massachusetts General Hospital in Boston.

"The [federal] sunshine law requires companies to make these payments available to the public. Part of the motivation, in addition to transparency, is that these sunshine laws may have a deterrent effect if physicians think these payments will be made public," said Pham-Kanter, assistant professor in the Dept. of Health Systems, Management and Policy at the Colorado School of Public Health. "If the payments were to influence prescribing, we would expect to see less prescribing of branded drugs and more prescribing of equivalent prescription generics."

But that did not happen. Pham-Kanter and her colleagues compared prescribing in Maine with what happened in New Hampshire and Rhode Island, which are demographically similar but had no disclosure laws.

Despite Maine's sunshine law, prescribing of branded SSRIs was actually 3.7 percentage points higher there than in New Hampshire, while it was less than 1 percentage point lower than in Rhode Island. The prescribing patterns for statins also showed little difference.

A similar lack of substantial effect was found in West Virginia, which was compared with Kentucky and Delaware.

Nationwide implications disputed

The study sheds little light on the potential impact of the federal Sunshine Act, said Daniel J. Carlat, MD, director of the Pew Prescription Project, which supports industry-payment disclosure and stricter conflict-of-interest policies at medical schools and hospitals.

"These are extremely weak disclosure laws when you compare them to the regulations of the Physician Payments Sunshine Act," said Dr. Carlat, a psychiatrist and fierce critic of pharmaceutical marketing practices.

In West Virginia, only amounts exceeding \$1,000 must be reported in the aggregate. Patients cannot see how much an individual physician received from a company.

In Maine, amounts greater than \$100 had to be reported, but were available to the public only upon written request. Maine repealed its sunshine law in 2011, after the time period analyzed in the study.

Dr. Carlat said he expects to see a shift toward clinically equivalent generics because of the Sunshine Act. Patients will have the ability to look up their physicians and see how much they received from a company and for what purpose. That information may lead patients to question why they are being prescribed a brand-name drug instead of a generic, he said.

"I also expect to see a drop-off in the number of physicians willing to give industry-funded lectures, because they will be more cautious about who they accept money from when that will be published for everyone to see," Dr. Carlat said.

The American Medical Association and more than 90 other physician organizations raised concerns about the method CMS proposed for handling disputes about information posted to the federal sunshine registry, which will list any payments of more than \$10. CMS proposed giving physicians a 45-day window once a year to challenge potential inaccuracies. The AMA says physicians should be able to correct mistakes year-round.

ADDITIONAL INFORMATION:

WEBLINK

“Effect of Physician Payment Disclosure Laws on Prescribing,” *Archives of Internal Medicine*, May 28
(archinte.jamanetwork.com/article.aspx?doi=10.1001/archinternmed.2012.1210)

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