

# Compliance Flash



## Topic: Sunshine Act and Open Payments August 2022

### What is the Sunshine Act?

The Sunshine Act requires manufacturers of drugs, medical devices, and biologicals that participate in U.S. federal health care programs to track and then report certain payments and items of value given to certain health care providers and teaching hospitals.

### What is Open Payments?

Open Payments is a national disclosure program that promotes transparency. The Open Payments database is housed on [CMS's Website](#) and is a publicly accessible database of payments that reporting entities (drug and medical device companies) make to covered recipients.

Process: Data is collected by reporting entities all year. Reporting entities submit data between Feb. 1 and March 31. Covered Recipients can review and dispute data between April 1 and May 15. Reporting entities correct data between April 1 and May 30. CMS publishes the data by June 30.

### Who is a Covered Recipient?

Originally covered recipients included all Licensed Physicians, including Dentists, Podiatrists, Optometrists, and Chiropractors. Starting with data collected in 2021, in 2022 the list of covered recipients was expanded to include five new provider types: Physician Assistants, Nurse Practitioners, Clinical Nurse Specialists, Certified Registered Nurse Anesthetists & Anesthesiologist Assistants, and Certified Nurse-Midwives.

### What is the cost of non-compliance?

Civil monetary penalties (CMPs) of up to \$1,000,000 as adjusted annually may be imposed on reporting entities if they fail to report information in a timely, accurate, or complete manner. Any CMPs collected will be used to operate the Open Payments program.

### Nature of Payment Requiring Reporting - Examples

- Acquisitions
- Consulting fees
- Honoraria
- Gifts
- Entertainment
- Food and beverage
- Travel and lodging
- Education
- Research
- Charitable contributions
- Debt forgiveness
- Royalty or license
- Current or prospective ownership or investment interest
- Compensation for serving as faculty or as a speaker for an accredited or unaccredited education program
- Grants
- Space rental or facility fees (teaching hospital only)

### Current Reporting Threshold – 2022

- Small Payments - \$11.64
- Total Annual Amount - \$116.35

For more information, please review:

- [Resources for Reporting Entities](#)
- [Resources for Covered Recipients](#)

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