The War on Payments to Physicians by Drug Companies and Device Manufacturers

By Chuck Dinerstein, MD, MBA — November 10, 2020

To reduce payments to doctors by device manufacturers and pharma companies, the federal government instituted a regulatory policy, the Sunshine Act, in 2013. The goal was to allow the disinfecting nature of transparency to reduce the ethical problem of obligation when receiving "gifts." Two reports update how that battle seems to be going.

The first study looks at physicians' changing payment patterns between 2014, the first year of the Sunshine Act's Open Payments database, and 2018.

- 45% of physicians continuing to receive these payments, down 13% from 2014. The value of those payments has not declined as precipitously, by only 6% - fewer physicians are getting larger amounts.
- The greatest decline was among psychiatrists, hospital-based physicians, e.g., hospitalists, obstetrician-gynecologists, and primary care physicians. The least drops among surgeons and medical specialists – the ones doing procedures and writing prescriptions
- Those receiving more than $50,000 accounted for 3.4% of physicians receiving payments but 82% of the total value.
The most glaring of the study's limitations was excluding payments for research and not identifying whether payments for physician-held patents on devices were included. Research funding has a long history of concern from an ethical perspective, while payment for patents is a more accepted business transaction.

The second study hones in on cardiologists, among the medical specialists referenced in the first research report. This study matched Open Payment data from 2016 to 2018 to a national registry of patients receiving one of two cardiac devices, an implantable cardioverter-defibrillator, ICD, or a cardiac resynchronization therapy pacemaker. This device includes the function of an ICD and also provides pacing to both chambers of the heart, CRT-D. These devices cost roughly $6-10,000, and implantation payments to the hospital are in the high $30,000. Four companies make these devices in the US market.

- The analysis considered 145,900 patients undergoing first time place of these devices, performed by 4435 physicians at 1763 hospitals.
- Payments did not affect outcomes
- 94% of those physicians received payments from these device manufacturers.
- "Patients were substantially more likely to receive ICD or CRT-D devices made by the manufacturer that provided the highest total payment than were patients of physicians who received no payment." The likelihood of payment varied among the manufacturers, identified only as A-D. For manufacturer D, the possibility was 17-fold greater.
- Higher payments were associated with what you might term greater brand loyalty, and higher payments were associated with higher rates of implantation of a device.

"The factors that guide device selection have not been well characterized but are likely complex, including patient, device, hospital, and physician considerations. ... Nevertheless, it is likely that physician choice may be an important determinant of device selection."

The answer to the question of the influence of payments upon physician choice remains a bit of a chicken-egg dilemma, which came first the payment or the use. As a physician who has used a fair number of devices across several manufacturers in my time, I would argue that use precedes payment. And it is not that physicians are being rewarded. As the article briefly suggests, the use of a device requires a support network, both of expertise from the manufacturer and the skill and expertise of the entire staff deploying or implanting the device. As a physician, when you find a tool that gives you good results and become very familiar with its use and limitations, you tend to use it a lot more than similar products that may work differently. As a manufacturer, if you find someone using your device frequently, and believe me, every one of these companies knows who is implanting what in great detail, then from a purely business point of view, isn't this your best spokesperson – a peer, with good results and some brand loyalty?

As with the other study, there are limitations. Again, research and payments for patent ownership are not addressed. Does that reflect a bias among the academic authors? Just asking. Moreover, no distinction is made for meals or consulting payments, even though those numbers vary substantially. Finally, there is no evidence that one device is actually better than another makes
any choice reasonable from the point of view of outcome.

There is an accompanying editorial on fraud and abuse in healthcare. The anti-kickback regulations designed to keep physicians from profiting improperly from their medical decisions have spawned its own "gaming" of the system and need a review. Neither study shows whether payment or practice proceed one or the other, and that is the underlying ethical question. The disinfecting nature of transparency seems limited, but the real question is whether a disinfectant is necessary at all.

Sources: Trends in Industry Payments to Physicians in the United States From 2014 to 2018
JAMA DOI: 10.1001/jama.2020.11413

Association Between Industry Payments to Physicians and Device Selection in ICD Implantation
JAMA DOI: 10.1001/jama.2020.17436


Links