Conflict of interest disclosure is not all sunshine

By ACSH Staff — February 17, 2012

Is disclosure of conflict of interest always a good thing? A new analysis suggests that the answer is more complex than a simple yes or no.

The 2010 health care reform legislation contains a provision requiring drug and medical device manufacturers to publicly report gifts and payments made to physicians and teaching hospitals. Poised to go into effect this year, the provision will subject manufacturers to penalties ranging from $10,000 to $100,000 for each violation. The Physician Payments Sunshine Act (PPSA), as it’s called, is intended to encourage doctors to make treatment decisions in the best interests of patients, instead of being unduly influenced by gifts or payments from drug and medical device manufacturers. However, a recent article [1] published in the Journal of the American Medical Association examines why disclosure of this kind may actually harm those it’s intended to protect: patients.

Researchers led by Dr. George Lowenstein, a professor of economics and psychology at Carnegie Mellon University, evaluated a number of studies that demonstrated how conflict of interest disclosure may not actually correct the problems that can arise when physicians find themselves in a position to benefit financially from referrals or tests that may not be in the patient’s best interest.

The researchers findings were two-fold: First, disclosure can actually increase the physician’s often unconscious temptation to render advice that benefits himself, under the assumption that disclosure has exempted the doctor from responsibility. Second, disclosure may make a patient feel pressured to comply with the advice out of fear that her physician would otherwise interpret her refusal as distrust or suspicion. Clearly, these studies, which mimicked the patient-physician relationship, uncovered a minefield of psychological complexity that legislators may never have considered when drafting the PPSA.

Yet Dr. Lowenstein and his colleagues do not dismiss the likelihood that such disclosures are, overall, in the best interest of medical practice. It should be a patient’s right to know, they maintain, if a physician has been compensated by a drug company or device maker, or stands to benefit financially from a referral. The question for policy, they write, should not be whether to disclose but how to ensure that disclosure has its intended effects. They contend that conflicts of interest are at the heart of the astronomical increases in health care costs in the United States, which makes reform all the more imperative. To that end, these researchers endorse the idea of a web-based universal online disclosure form, as well as a public database that patients can access on their own time, and intermediaries who can help patients make sense of that information.

Requiring disclosure has become standard policy at most of the respected medical and scientific journals over the past decade as well, adds ACSH’s Dr. Gilbert Ross. But the requirement to disclose anything remotely relevant financially does not take into account other major conflicts,
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