



## Accreditation Council for Continuing Medical Education

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August 21, 2014

The Honorable Marilyn Tavenner  
Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1612-P, Mail Stop C4-26-05  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Dear Administrator Tavenner:

The Accreditation Council for Continuing Medical Education (ACCME®) believes that CMS should **not** rescind § 403.904(g)(1) of the Open Payments program. We believe that CMS should retain the requirement that “the applicable manufacturer does not pay the covered recipient speaker directly” and retain the requirement that “the applicable manufacturer does not select the covered recipient speaker or provide the third party (such as a continuing education vendor) with a distinct, identifiable set of individuals to be considered as speakers for the continuing education program.” These requirements are essential elements of ACCME® Standards for Commercial Support: Standards to Ensure Independence in CME Activities (“the ACCME SCS”).

The ACCME believes that learners, planners, and the teachers and authors in commercially supported accredited continuing professional education should be exempt from reporting within the CMS Open Payments Program – if that accreditation system **a)** utilizes the ACCME SCS exactly as written by the ACCME; and **b)** has successfully completed an ACCME verification process to ensure that it evaluates its continuing education providers for compliance with the ACCME SCS using the same rules, data sources, and interpretations as the ACCME. We believe this would establish a valid mechanism to **a)** retain a list of accreditation systems in which the ACCME SCS are implemented, as is currently the case in the regulations of the Open Payments program, and **b)** provide verification of this implementation using already existing processes within the system of professional self-regulation in accredited continuing education.

***The ACCME® Standards for Commercial Support: Standards to Ensure Independence in CME Activities***

In 1991, in response to positions taken by members of the US Senate and the Executive Branch's Food and Drug Administration, the ACCME adopted Standards for Commercial Support. These Standards for Commercial Support prevented the development of any relationship between commercial supporters and the learners or the teachers or the authors in commercially supported accredited continuing medical education. In 2004 these standards were updated to the *ACCME® Standards for Commercial Support: Standards to Ensure Independence in CME Activities*, which explicitly require independence from commercial interests; the identification and resolution of conflict of interest created by the personal pre-existing financial relationships of those in the control of the content; the appropriate management of funds derived from industry; the absolute separation of promotion from education; the freedom from commercial bias; and the full disclosure of relevant financial relationships, as well as of any commercial support. These ACCME SCS were unanimously approved, without objection, by the individual governing bodies of the ACCME's member organizations – specifically the American Board of Medical Specialties (ABMS), the American Hospital Association (AHA), the American Medical Association (AMA), the Association of American Medical Colleges (AAMC), the Association for Hospital Medical Education (AHME), the Council of Medical Specialty Societies (CMSS), and the Federation of State Medical Boards (FSMB). The ACCME SCS are enshrined in the language of the ABMS Maintenance of Certification® program, the AMA Physician's Recognition Award, the CMSS Code for Interactions with Companies, and the FSMB Maintenance of Licensure system.

The ACCME system produces 138,000 activities per year with 14 million physician registrants. In 2013, approximately 17% of these activities were commercially supported.

***A Process for Verification***

The Bylaws of the ACCME, approved by each of the ACCME member organizations, state that the ACCME shall "serve as the body recognizing institutions and organizations offering continuing medical education accreditation." In partial fulfillment of this obligation, the ACCME believes that a system of ACCME verification of the appropriate implementation and application of the ACCME® Standards for Commercial Support: Standards to Ensure Independence in CME Activities provides a mechanism to ensure that the independence aspirations of the Open Payments program are met.

Since 1987, the ACCME has administered an oversight system for other continuing education accreditors. This ACCME verification system includes 42 US state and territorial continuing medical education accreditors, the Accreditation Council for Pharmacy Education (ACPE), and

the Joint Accreditation™ program for interprofessional education created in partnership by the ACCME, the ACPE and the American Nurses Credentialing Center (ANCC).

The ACCME has data to support the verification of these accreditors' adoption and application of the ACCME SCS in fulfillment of the ACCME's expectations. This process of verification is available to any bona fide continuing professional education accreditor, domestically or internationally, that has adopted the ACCME SCS in its entirety. The ACCME would consider making this process public, open, and transparent if that would be useful to accreditors and the Executive Branch in fulfilling the goals of the Open Payments program. Additionally, if it would be useful to CMS, we could consider also administering the verification process under the auspices of the Joint Accreditation™ program for interprofessional education, if acceptable to the current partners (ACCME, ACPE, and ANCC).

The continuing education accreditation, activity approval, and credit systems of the American Academy of Family Physicians, the American Academy of Physician Assistants, the American Dental Association, the American Medical Association, the American Nurses Credentialing Center, the American Osteopathic Association, and the Association of Regulatory Boards of Optometry already base their requirements on the ACCME SCS. Verification could be a next step in order to ensure unity in requirements and interpretation.

***Disclaimer***

The ACCME understands the enormity of the concession that each of the above organizations would be making if an ACCME SCS verification process became a requirement for exclusion under the Open Payments program. This service is not intended to impinge on the rights, responsibilities, or autonomy of the continuing education accreditation and credit bodies or to imply any judgment on the integrity of their systems. We offer this service to facilitate the appropriate exclusion of accredited continuing education from reporting under the Open Payments program. We propose to offer a service to the health care professions of the US—and the people that we all serve – that we believe will facilitate health professionals' engagement in valid, practice-based, independent continuing education that has been shown, unequivocally, to improve their abilities and performance-in-practice in the health care system.

Sincerely,

A handwritten signature in blue ink, appearing to read "M Kopelow". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Murray Kopelow, MD, MS(Comm), FRCPC  
President and Chief Executive Officer