

1           (1) *ENSURING COMPLIANCE.*—*The Secretary of*  
2           *Health and Human Services shall establish policies*  
3           *and procedures to ensure compliance with the require-*  
4           *ments described in subsection (i)(1) of section 1877 of*  
5           *the Social Security Act, as added by subsection*  
6           *(a)(3), beginning on the date such requirements first*  
7           *apply. Such policies and procedures may include un-*  
8           *announced site reviews of hospitals.*

9           (2) *AUDITS.*—*Beginning not later than Novem-*  
10          *ber 1, 2011, the Secretary of Health and Human*  
11          *Services shall conduct audits to determine if hospitals*  
12          *violate the requirements referred to in paragraph (1).*

13 **SEC. 6002. TRANSPARENCY REPORTS AND REPORTING OF**  
14                   **PHYSICIAN OWNERSHIP OR INVESTMENT IN-**  
15                   **TERESTS.**

16          *Part A of title XI of the Social Security Act (42 U.S.C.*  
17          *1301 et seq.) is amended by inserting after section 1128F*  
18          *the following new section:*

19 **“SEC. 1128G. TRANSPARENCY REPORTS AND REPORTING OF**  
20                   **PHYSICIAN OWNERSHIP OR INVESTMENT IN-**  
21                   **TERESTS.**

22          **“(a) TRANSPARENCY REPORTS.**—

23               **“(1) PAYMENTS OR OTHER TRANSFERS OF**  
24          **VALUE.**—

1           “(A) *IN GENERAL.*—On March 31, 2013,  
2           and on the 90th day of each calendar year begin-  
3           ning thereafter, any applicable manufacturer  
4           that provides a payment or other transfer of  
5           value to a covered recipient (or to an entity or  
6           individual at the request of or designated on be-  
7           half of a covered recipient), shall submit to the  
8           Secretary, in such electronic form as the Sec-  
9           retary shall require, the following information  
10          with respect to the preceding calendar year:

11                   “(i) *The name of the covered recipient.*

12                   “(ii) *The business address of the cov-*  
13                   *ered recipient and, in the case of a covered*  
14                   *recipient who is a physician, the specialty*  
15                   *and National Provider Identifier of the cov-*  
16                   *ered recipient.*

17                   “(iii) *The amount of the payment or*  
18                   *other transfer of value.*

19                   “(iv) *The dates on which the payment*  
20                   *or other transfer of value was provided to*  
21                   *the covered recipient.*

22                   “(v) *A description of the form of the*  
23                   *payment or other transfer of value, indi-*  
24                   *cated (as appropriate for all that apply)*  
25                   *as—*

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*“(I) cash or a cash equivalent;*

*“(II) in-kind items or services;*

*“(III) stock, a stock option, or  
any other ownership interest, dividend,  
profit, or other return on investment;  
or*

*“(IV) any other form of payment  
or other transfer of value (as defined  
by the Secretary).*

*“(vi) A description of the nature of the  
payment or other transfer of value, indi-  
cated (as appropriate for all that apply)  
as—*

*“(I) consulting fees;*

*“(II) compensation for services  
other than consulting;*

*“(III) honoraria;*

*“(IV) gift;*

*“(V) entertainment;*

*“(VI) food;*

*“(VII) travel (including the speci-  
fied destinations);*

*“(VIII) education;*

*“(IX) research;*

*“(X) charitable contribution;*

1                   “(XI) *royalty or license;*

2                   “(XII) *current or prospective*  
3                   *ownership or investment interest;*

4                   “(XIII) *direct compensation for*  
5                   *-serving as faculty or as a speaker for*  
6                   *a medical education program;*

7                   “(XIV) *grant; or*

8                   “(XV) *any other nature of the*  
9                   *payment or other transfer of value (as*  
10                   *defined by the Secretary).*

11                   “(vii) *If the payment or other transfer*  
12                   *of value is related to marketing, education,*  
13                   *or research specific to a covered drug, de-*  
14                   *vice, biological, or medical supply, the name*  
15                   *of that covered drug, device, biological, or*  
16                   *medical supply.*

17                   “(viii) *Any other categories of informa-*  
18                   *tion regarding the payment or other trans-*  
19                   *fer of value the Secretary determines appro-*  
20                   *priate.*

21                   “(B) *SPECIAL RULE FOR CERTAIN PAY-*  
22                   *MENTS OR OTHER TRANSFERS OF VALUE.—In*  
23                   *the case where an applicable manufacturer pro-*  
24                   *vides a payment or other transfer of value to an*  
25                   *entity or individual at the request of or des-*

1           *ignated on behalf of a covered recipient, the ap-*  
2           *plicable manufacturer shall disclose that pay-*  
3           *ment or other transfer of value under the name*  
4           *of the covered recipient.*

5           “(2) *PHYSICIAN OWNERSHIP.*—*In addition to the*  
6           *requirement under paragraph (1)(A), on March 31,*  
7           *2013, and on the 90th day of each calendar year be-*  
8           *ginning thereafter, any applicable manufacturer or*  
9           *applicable group purchasing organization shall sub-*  
10          *mit to the Secretary, in such electronic form as the*  
11          *Secretary shall require, the following information re-*  
12          *garding any ownership or investment interest (other*  
13          *than an ownership or investment interest in a pub-*  
14          *licly traded security and mutual fund, as described in*  
15          *section 1877(c)) held by a physician (or an imme-*  
16          *diated family member of such physician (as defined for*  
17          *purposes of section 1877(a))) in the applicable manu-*  
18          *facturer or applicable group purchasing organization*  
19          *during the preceding year:*

20                 “(A) *The dollar amount invested by each*  
21                 *physician holding such an ownership or invest-*  
22                 *ment interest.*

23                 “(B) *The value and terms of each such own-*  
24                 *ership or investment interest.*

1           “(C) *Any payment or other transfer of*  
2 *value provided to a physician holding such an*  
3 *ownership or investment interest (or to an entity*  
4 *or individual at the request of or designated on*  
5 *behalf of a physician holding such an ownership*  
6 *or investment interest), including the informa-*  
7 *tion described in clauses (i) through (viii) of*  
8 *paragraph (1)(A), except that in applying such*  
9 *clauses, ‘physician’ shall be substituted for ‘cov-*  
10 *ered recipient’ each place it appears.*

11           “(D) *Any other information regarding the*  
12 *ownership or investment interest the Secretary*  
13 *determines appropriate.*

14           “(b) *PENALTIES FOR NONCOMPLIANCE.—*

15           “(1) *FAILURE TO REPORT.—*

16           “(A) *IN GENERAL.—Subject to subpara-*  
17 *graph (B) except as provided in paragraph (2),*  
18 *any applicable manufacturer or applicable group*  
19 *purchasing organization that fails to submit in-*  
20 *formation required under subsection (a) in a*  
21 *timely manner in accordance with rules or regu-*  
22 *lations promulgated to carry out such subsection,*  
23 *shall be subject to a civil money penalty of not*  
24 *less than \$1,000, but not more than \$10,000, for*  
25 *each payment or other transfer of value or own-*

1        *ership or investment interest not reported as re-*  
2        *quired under such subsection. Such penalty shall*  
3        *be imposed and collected in the same manner as*  
4        *civil money penalties under subsection (a) of sec-*  
5        *tion 1128A are imposed and collected under that*  
6        *section.*

7            *“(B) LIMITATION.—The total amount of*  
8        *civil money penalties imposed under subpara-*  
9        *graph (A) with respect to each annual submis-*  
10       *sion of information under subsection (a) by an*  
11       *applicable manufacturer or applicable group*  
12       *purchasing organization shall not exceed*  
13       *\$150,000.*

14           *“(2) KNOWING FAILURE TO REPORT.—*

15           *“(A) IN GENERAL.—Subject to subpara-*  
16       *graph (B), any applicable manufacturer or ap-*  
17       *plicable group purchasing organization that*  
18       *knowingly fails to submit information required*  
19       *under subsection (a) in a timely manner in ac-*  
20       *cordance with rules or regulations promulgated*  
21       *to carry out such subsection, shall be subject to*  
22       *a civil money penalty of not less than \$10,000,*  
23       *but not more than \$100,000, for each payment or*  
24       *other transfer of value or ownership or invest-*  
25       *ment interest not reported as required under*

1        *such subsection. Such penalty shall be imposed*  
2        *and collected in the same manner as civil money*  
3        *penalties under subsection (a) of section 1128A*  
4        *are imposed and collected under that section.*

5            *“(B) LIMITATION.—The total amount of*  
6        *civil money penalties imposed under subpara-*  
7        *graph (A) with respect to each annual submis-*  
8        *sion of information under subsection (a) by an*  
9        *applicable manufacturer or applicable group*  
10       *purchasing organization shall not exceed*  
11       *\$1,000,000.*

12           *“(3) USE OF FUNDS.—Funds collected by the*  
13        *Secretary as a result of the imposition of a civil*  
14        *money penalty under this subsection shall be used to*  
15        *carry out this section.*

16           *“(c) PROCEDURES FOR SUBMISSION OF INFORMATION*  
17        *AND PUBLIC AVAILABILITY.—*

18           *“(1) IN GENERAL.—*

19           *“(A) ESTABLISHMENT.—Not later than Oc-*  
20        *tober 1, 2011, the Secretary shall establish proce-*  
21        *dures—*

22           *“(i) for applicable manufacturers and*  
23        *applicable group purchasing organizations*  
24        *to submit information to the Secretary*  
25        *under subsection (a); and*

1                   “(ii) for the Secretary to make such in-  
2                   formation submitted available to the public.

3                   “(B) *DEFINITION OF TERMS.*—The proce-  
4                   dures established under subparagraph (A) shall  
5                   provide for the definition of terms (other than  
6                   those terms defined in subsection (e)), as appro-  
7                   priate, for purposes of this section.

8                   “(C) *PUBLIC AVAILABILITY.*—Except as  
9                   provided in subparagraph (E), the procedures es-  
10                  tablished under subparagraph (A)(ii) shall en-  
11                  sure that, not later than September 30, 2013,  
12                  and on June 30 of each calendar year beginning  
13                  thereafter, the information submitted under sub-  
14                  section (a) with respect to the preceding calendar  
15                  year is made available through an Internet  
16                  website that—

17                         “(i) is searchable and is in a format  
18                         that is clear and understandable;

19                         “(ii) contains information that is pre-  
20                         sented by the name of the applicable manu-  
21                         facturer or applicable group purchasing or-  
22                         ganization, the name of the covered recipi-  
23                         ent, the business address of the covered re-  
24                         cipient, the specialty of the covered recipi-  
25                         ent, the value of the payment or other trans-

1           *fer of value, the date on which the payment*  
2           *or other transfer of value was provided to*  
3           *the covered recipient, the form of the pay-*  
4           *ment or other transfer of value, indicated*  
5           *(as appropriate) under subsection*  
6           *(a)(1)(A)(v), the nature of the payment or*  
7           *other transfer of value, indicated (as appro-*  
8           *priate) under subsection (a)(1)(A)(vi), and*  
9           *the name of the covered drug, device, bio-*  
10          *logical, or medical supply, as applicable;*

11           *“(iii) contains information that is able*  
12          *to be easily aggregated and downloaded;*

13           *“(iv) contains a description of any en-*  
14          *forcement actions taken to carry out this*  
15          *section, including any penalties imposed*  
16          *under subsection (b), during the preceding*  
17          *year;*

18           *“(v) contains background information*  
19          *on industry-physician relationships;*

20           *“(vi) in the case of information sub-*  
21          *mitted with respect to a payment or other*  
22          *transfer of value described in subparagraph*  
23          *(E)(i), lists such information separately*  
24          *from the other information submitted under*  
25          *subsection (a) and designates such sepa-*

1 *rately listed information as funding for*  
2 *clinical research;*

3 *“(vii) contains any other information*  
4 *the Secretary determines would be helpful to*  
5 *the average consumer;*

6 *“(viii) does not contain the National*  
7 *Provider Identifier of the covered recipient,*  
8 *and*

9 *“(ix) subject to subparagraph (D), pro-*  
10 *vides the applicable manufacturer, applica-*  
11 *ble group purchasing organization, or cov-*  
12 *ered recipient an opportunity to review and*  
13 *submit corrections to the information sub-*  
14 *mitted with respect to the applicable manu-*  
15 *facturer, applicable group purchasing orga-*  
16 *nization, or covered recipient, respectively,*  
17 *for a period of not less than 45 days prior*  
18 *to such information being made available to*  
19 *the public.*

20 *“(D) CLARIFICATION OF TIME PERIOD FOR*  
21 *REVIEW AND CORRECTIONS.—In no case may the*  
22 *45-day period for review and submission of cor-*  
23 *rections to information under subparagraph*  
24 *(C)(ix) prevent such information from being*  
25 *made available to the public in accordance with*

1           *the dates described in the matter preceding*  
2           *clause (i) in subparagraph (C).*

3           “(E) *DELAYED PUBLICATION FOR PAY-*  
4           *MENTS MADE PURSUANT TO PRODUCT RESEARCH*  
5           *OR DEVELOPMENT AGREEMENTS AND CLINICAL*  
6           *INVESTIGATIONS.—*

7                   “(i) *IN GENERAL.—In the case of in-*  
8                   *formation submitted under subsection (a)*  
9                   *with respect to a payment or other transfer*  
10                   *of value made to a covered recipient by an*  
11                   *applicable manufacturer pursuant to a*  
12                   *product research or development agreement*  
13                   *for services furnished in connection with re-*  
14                   *search on a potential new medical tech-*  
15                   *nology or a new application of an existing*  
16                   *medical technology or the development of a*  
17                   *new drug, device, biological, or medical sup-*  
18                   *ply, or by an applicable manufacturer in*  
19                   *connection with a clinical investigation re-*  
20                   *garding a new drug, device, biological, or*  
21                   *medical supply, the procedures established*  
22                   *under subparagraph (A)(ii) shall provide*  
23                   *that such information is made available to*  
24                   *the public on the first date described in the*

1           *matter preceding clause (i) in subparagraph*  
2           *(C) after the earlier of the following:*

3                     *“(I) The date of the approval or*  
4                     *clearance of the covered drug, device,*  
5                     *biological, or medical supply by the*  
6                     *Food and Drug Administration.*

7                     *“(II) Four calendar years after*  
8                     *the date such payment or other trans-*  
9                     *fer of value was made.*

10                    *“(ii) CONFIDENTIALITY OF INFORMA-*  
11                    *TION PRIOR TO PUBLICATION.—Information*  
12                    *described in clause (i) shall be considered*  
13                    *confidential and shall not be subject to dis-*  
14                    *closure under section 552 of title 5, United*  
15                    *States Code, or any other similar Federal,*  
16                    *State, or local law, until on or after the*  
17                    *date on which the information is made*  
18                    *available to the public under such clause.*

19                    *“(2) CONSULTATION.—In establishing the proce-*  
20                    *dures under paragraph (1), the Secretary shall con-*  
21                    *sult with the Inspector General of the Department of*  
22                    *Health and Human Services, affected industry, con-*  
23                    *sumers, consumer advocates, and other interested par-*  
24                    *ties in order to ensure that the information made*

1     *available to the public under such paragraph is pre-*  
2     *sented in the appropriate overall context.*

3     “(d) *ANNUAL REPORTS AND RELATION TO STATE*  
4     *LAWS.—*

5             “(1) *ANNUAL REPORT TO CONGRESS.—Not later*  
6     *than April 1 of each year beginning with 2013, the*  
7     *Secretary shall submit to Congress a report that in-*  
8     *cludes the following:*

9                     “(A) *The information submitted under sub-*  
10     *section (a) during the preceding year, aggregated*  
11     *for each applicable manufacturer and applicable*  
12     *group purchasing organization that submitted*  
13     *such information during such year (except, in*  
14     *the case of information submitted with respect to*  
15     *a payment or other transfer of value described in*  
16     *subsection (c)(1)(E)(i), such information shall be*  
17     *included in the first report submitted to Congress*  
18     *after the date on which such information is made*  
19     *available to the public under such subsection).*

20                     “(B) *A description of any enforcement ac-*  
21     *tions taken to carry out this section, including*  
22     *any penalties imposed under subsection (b), dur-*  
23     *ing the preceding year.*

24             “(2) *ANNUAL REPORTS TO STATES.—Not later*  
25     *than September 30, 2013 and on June 30 of each cal-*

1 *endar year thereafter, the Secretary shall submit to*  
2 *States a report that includes a summary of the infor-*  
3 *mation submitted under subsection (a) during the*  
4 *preceding year with respect to covered recipients in*  
5 *the State (except, in the case of information submitted*  
6 *with respect to a payment or other transfer of value*  
7 *described in subsection (c)(1)(E)(i), such information*  
8 *shall be included in the first report submitted to*  
9 *States after the date on which such information is*  
10 *made available to the public under such subsection).*

11 *“(3) RELATION TO STATE LAWS.—*

12 *“(A) IN GENERAL.—In the case of a pay-*  
13 *ment or other transfer of value provided by an*  
14 *applicable manufacturer that is received by a*  
15 *covered recipient (as defined in subsection (e))*  
16 *on or after January 1, 2012, subject to subpara-*  
17 *graph (B), the provisions of this section shall*  
18 *preempt any statute or regulation of a State or*  
19 *of a political subdivision of a State that requires*  
20 *an applicable manufacturer (as so defined) to*  
21 *disclose or report, in any format, the type of in-*  
22 *formation (as described in subsection (a)) re-*  
23 *garding such payment or other transfer of value.*

24 *“(B) NO PREEMPTION OF ADDITIONAL RE-*  
25 *QUIREMENTS.—Subparagraph (A) shall not pre-*

1           *empt any statute or regulation of a State or of*  
2           *a political subdivision of a State that requires*  
3           *the disclosure or reporting of information—*

4                     *“(i) not of the type required to be dis-*  
5                     *closed or reported under this section;*

6                     *“(ii) described in subsection (e)(10)(B),*  
7                     *except in the case of information described*  
8                     *in clause (i) of such subsection;*

9                     *“(iii) by any person or entity other*  
10                    *than an applicable manufacturer (as so de-*  
11                    *fined) or a covered recipient (as defined in*  
12                    *subsection (e)); or*

13                    *“(iv) to a Federal, State, or local gov-*  
14                    *ernmental agency for public health surveil-*  
15                    *lance, investigation, or other public health*  
16                    *purposes or health oversight purposes.*

17                    *“(C) Nothing in subparagraph (A) shall be*  
18                    *construed to limit the discovery or admissibility*  
19                    *of information described in such subparagraph*  
20                    *in a criminal, civil, or administrative pro-*  
21                    *ceeding.*

22                    *“(4) CONSULTATION.—The Secretary shall con-*  
23                    *sult with the Inspector General of the Department of*  
24                    *Health and Human Services on the implementation*  
25                    *of this section.*

1 “(e) *DEFINITIONS.*—*In this section:*

2 “(1) *APPLICABLE GROUP PURCHASING ORGANI-*  
3 *ZATION.*—*The term ‘applicable group purchasing or-*  
4 *ganization’ means a group purchasing organization*  
5 *(as defined by the Secretary) that purchases, arranges*  
6 *for, or negotiates the purchase of a covered drug, de-*  
7 *vice, biological, or medical supply which is operating*  
8 *in the United States, or in a territory, possession, or*  
9 *commonwealth of the United States.*

10 “(2) *APPLICABLE MANUFACTURER.*—*The term*  
11 *‘applicable manufacturer’ means a manufacturer of a*  
12 *covered drug, device, biological, or medical supply*  
13 *which is operating in the United States, or in a terri-*  
14 *tory, possession, or commonwealth of the United*  
15 *States.*

16 “(3) *CLINICAL INVESTIGATION.*—*The term ‘clin-*  
17 *ical investigation’ means any experiment involving 1*  
18 *or more human subjects, or materials derived from*  
19 *human subjects, in which a drug or device is admin-*  
20 *istered, dispensed, or used.*

21 “(4) *COVERED DEVICE.*—*The term ‘covered de-*  
22 *vice’ means any device for which payment is avail-*  
23 *able under title XVIII or a State plan under title*  
24 *XIX or XXI (or a waiver of such a plan).*

1           “(5) *COVERED DRUG, DEVICE, BIOLOGICAL, OR*  
2           *MEDICAL SUPPLY.*—*The term ‘covered drug, device,*  
3           *biological, or medical supply’ means any drug, bio-*  
4           *logical product, device, or medical supply for which*  
5           *payment is available under title XVIII or a State*  
6           *plan under title XIX or XXI (or a waiver of such a*  
7           *plan).*

8           “(6) *COVERED RECIPIENT.*—

9           “(A) *IN GENERAL.*—*Except as provided in*  
10           *subparagraph (B), the term ‘covered recipient’*  
11           *means the following:*

12                   “(i) *A physician.*

13                   “(ii) *A teaching hospital.*

14           “(B) *EXCLUSION.*—*Such term does not in-*  
15           *clude a physician who is an employee of the ap-*  
16           *licable manufacturer that is required to submit*  
17           *information under subsection (a).*

18           “(7) *EMPLOYEE.*—*The term ‘employee’ has the*  
19           *meaning given such term in section 1877(h)(2).*

20           “(8) *KNOWINGLY.*—*The term ‘knowingly’ has the*  
21           *meaning given such term in section 3729(b) of title*  
22           *31, United States Code.*

23           “(9) *MANUFACTURER OF A COVERED DRUG, DE-*  
24           *VICE, BIOLOGICAL, OR MEDICAL SUPPLY.*—*The term*  
25           *‘manufacturer of a covered drug, device, biological, or*

1 *medical supply’ means any entity which is engaged*  
2 *in the production, preparation, propagation,*  
3 *compounding, or conversion of a covered drug, device,*  
4 *biological, or medical supply (or any entity under*  
5 *common ownership with such entity which provides*  
6 *assistance or support to such entity with respect to*  
7 *the production, preparation, propagation,*  
8 *compounding, conversion, marketing, promotion, sale,*  
9 *or distribution of a covered drug, device, biological, or*  
10 *medical supply).*

11 “(10) *PAYMENT OR OTHER TRANSFER OF*  
12 *VALUE.—*

13 “(A) *IN GENERAL.—The term ‘payment or*  
14 *other transfer of value’ means a transfer of any-*  
15 *thing of value. Such term does not include a*  
16 *transfer of anything of value that is made indi-*  
17 *rectly to a covered recipient through a third*  
18 *party in connection with an activity or service*  
19 *in the case where the applicable manufacturer is*  
20 *unaware of the identity of the covered recipient.*

21 “(B) *EXCLUSIONS.—An applicable manu-*  
22 *facturer shall not be required to submit informa-*  
23 *tion under subsection (a) with respect to the fol-*  
24 *lowing:*

1           “(i) A transfer of anything the value of  
2           which is less than \$10, unless the aggregate  
3           amount transferred to, requested by, or des-  
4           ignated on behalf of the covered recipient by  
5           the applicable manufacturer during the cal-  
6           endar year exceeds \$100. For calendar years  
7           after 2012, the dollar amounts specified in  
8           the preceding sentence shall be increased by  
9           the same percentage as the percentage in-  
10          crease in the consumer price index for all  
11          urban consumers (all items; U.S. city aver-  
12          age) for the 12-month period ending with  
13          June of the previous year.

14          “(ii) Product samples that are not in-  
15          tended to be sold and are intended for pa-  
16          tient use.

17          “(iii) Educational materials that di-  
18          rectly benefit patients or are intended for  
19          patient use.

20          “(iv) The loan of a covered device for  
21          a short-term trial period, not to exceed 90  
22          days, to permit evaluation of the covered de-  
23          vice by the covered recipient.

24          “(v) Items or services provided under a  
25          contractual warranty, including the re-

1           *placement of a covered device, where the*  
2           *terms of the warranty are set forth in the*  
3           *purchase or lease agreement for the covered*  
4           *device.*

5           “(vi) *A transfer of anything of value to*  
6           *a covered recipient when the covered recipi-*  
7           *ent is a patient and not acting in the pro-*  
8           *fessional capacity of a covered recipient.*

9           “(vii) *Discounts (including rebates).*

10          “(viii) *In-kind items used for the pro-*  
11          *vision of charity care.*

12          “(ix) *A dividend or other profit dis-*  
13          *tribution from, or ownership or investment*  
14          *interest in, a publicly traded security and*  
15          *mutual fund (as described in section*  
16          *1877(c)).*

17          “(x) *In the case of an applicable man-*  
18          *ufacturer who offers a self-insured plan,*  
19          *payments for the provision of health care to*  
20          *employees under the plan.*

21          “(xi) *In the case of a covered recipient*  
22          *who is a licensed non-medical professional,*  
23          *a transfer of anything of value to the cov-*  
24          *ered recipient if the transfer is payment*  
25          *solely for the non-medical professional serv-*

1           ices of such licensed non-medical profes-  
2           sional.

3                   “(xii) In the case of a covered recipient  
4           who is a physician, a transfer of anything  
5           of value to the covered recipient if the trans-  
6           fer is payment solely for the services of the  
7           covered recipient with respect to a civil or  
8           criminal action or an administrative pro-  
9           ceeding.

10                   “(11) PHYSICIAN.—The term ‘physician’ has the  
11           meaning given that term in section 1861(r).”.

12   **SEC. 6003. DISCLOSURE REQUIREMENTS FOR IN-OFFICE AN-**  
13                   **CILLARY SERVICES EXCEPTION TO THE PRO-**  
14                   **HIBITION ON PHYSICIAN SELF-REFERRAL**  
15                   **FOR CERTAIN IMAGING SERVICES.**

16           (a) *IN GENERAL.*—Section 1877(b)(2) of the Social Se-  
17   curity Act (42 U.S.C. 1395nn(b)(2)) is amended by adding  
18   at the end the following new sentence: “Such requirements  
19   shall, with respect to magnetic resonance imaging, com-  
20   puted tomography, positron emission tomography, and any  
21   other designated health services specified under subsection  
22   (h)(6)(D) that the Secretary determines appropriate, in-  
23   clude a requirement that the referring physician inform the  
24   individual in writing at the time of the referral that the  
25   individual may obtain the services for which the individual