

## Opinion

# Communication and Transparency: Who Could Be Opposed to That?

“Hi Doc,” ... I imagined the first salutation on my brand-new patient portal, the secure communication tool I was installing to comply with electronic health record “meaningful use” regulations.

The message continued, “The label on my eyedrops [*sic*] says ‘Instill one drop at bedtime.’ Does that mean I sposed [*sic*] to use it when I sposed [*sic*] to go to bed or when I do go to bed?”

My daydream pursued the thought that my patients used to interrupt my daydreams after hours with questions like these through the answering service, and now they would have another option. It was all going to lead to better communication for everyone (and perhaps smoother daydreaming for me)—and who could be opposed to that?

The same might be said for the financial transparency movement. As Academy EVP/CEO David Parke noted in his November 2013 *EyeNet* column, the Physician Payments Sunshine Act requiring disclosure of payments to physicians from industry went into effect last August. The first industry reports to the Centers for Medicare & Medicaid Services (CMS) were due at the end of March; physicians and hospitals will be able to make comments about the data in late summer; and the public will have access to the data in the fall. The effect this information will have on patients is difficult to gauge, but I predict that they

mostly will be proud if their doctor is so renowned that a big company would pay that kind of money for his or her services. Furthermore, if the doctor can justify the payments by showing that bona fide, not mala fide, work was done, there is not likely to be much dust stirred up about it. Except, perhaps, in malpractice cases in which the physician profited from a biased choice of a particular product for a patient. Empowering patients by disclosing (while not prohibiting) financial conflicts of interest—who could be opposed to that?

Another development at CMS has been flying under the radar. Rather quietly, CMS published its modified policy in the Jan. 17 *Federal Register* (effective March 18, 2014) on disclosure of Medicare payments for routine and emergent medical care to individual physicians under the Freedom of Information Act. It rescinds the former policy of not disclosing any payments for medical care to Medicare beneficiaries in a manner that could identify individual physicians. Instead, CMS will make case-by-case determinations, weighing the balance between the privacy interest of physicians and the public interest in disclosure of such information. In any event, the privacy of Medicare beneficiaries will be protected. This change in policy came about because the courts decided last year that an injunction against release of information was “no longer equita-

ble.” Of course, no one knows whether this new policy will result in only a few releases of information—for example, payments to a physician in a highly publicized Medicare fraud case—or will lead to widespread disclosure of payments on the grounds that taxpayers deserve to know where their money has gone. Perhaps the fulcrum will initially be placed to favor the physician privacy end of the balance and gradually move toward fuller public disclosure. Perhaps legal challenges to the new policy will cause CMS to avoid any disclosures. Nonetheless, it is a new development worth following. Change is always interesting—and who could be opposed to that?



RICHARD P. MILLS, MD, MPH  
CHIEF MEDICAL EDITOR, EYENET