

California Passes First State Law Requiring Physicians to Disclose Open Payments Database to Patients

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Effective January 1, 2023, the recently enacted California Assembly Bill 1278,[1] requires a physician and surgeon (defined as a physician and surgeon licensed pursuant to the Medical Practice Act or an osteopathic physician and surgeon licensed by the Osteopathic Medical Board of California under the Osteopathic Act, but not a physician or surgeon working in a hospital emergency room) to provide a written or electronic notice of the Open Payments database to a patient at the initial office visit. The written or electronic notice shall contain the following text:

“The Open Payments database is a federal tool used to search payments made by drug and device companies to physicians and teaching hospitals. It can be found [here](#). For informational purposes only, a link to the federal Centers for Medicare and Medicaid Services (CMS) Open Payments web page is provided here. The federal Physician Payments Sunshine Act requires that detailed information about payment and other payments of value worth over ten dollars (\$10) from manufacturers of drugs, medical devices, and biologics to physicians and teaching hospitals be made available to the public.”

The written notice must include a signature from the patient or a patient representative and the date of signature. The physician or surgeon is required to provide a copy of the signed and dated notice to the patient or patient representative and include a record of the notice in the electronic records for the patient (or in the event no electronic records are maintained, in the written records for the patient).

The bill also requires the physician or surgeon to post an Open Payments database notice in each location where they practice and in an area where it is likely to be seen by all persons who enter the office. The same Open Payments database notice must be posted on the internet website used for the physician or surgeon’s practice (if applicable). If the physician or surgeon is employed by a health care employer, the health care employer must comply with the posting requirements. A violation of the law will constitute unprofessional conduct.

FOOTNOTES

[1] <https://trackbill.com/bill/california-assembly-bill-1278-physicians-and-surgeons-payments-disclosure-notice/2043428/>

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