



New Law Requires Notice to Patients About Open Payments Database

Pursuant to Assembly Bill (AB) 1278, physicians will soon be required to provide a notice to their patients regarding the Open Payments database (Database), which is managed by the U.S. Centers for Medicare & Medicaid Services, or CMS.

Specifically, this new law requires physicians to do the following beginning **January 1, 2023**:

1. At the initial office visit with their patient, a physician must provide either a written or electronic notice of the Database that includes 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 at <https://openpaymentsdata.cms.gov>.”

If the physician uses an electronic records system, they must include a record of this notice in the patient’s records.

If the physician uses a paper-based records system, then the written notice to the patient must include a signature from the patient (or their representative) and a date of signature. Further, a copy of the written notice must be provided to the patient (or their representative) and included in the patient’s records.

2. Post a notice regarding the Database at each location where the physician practices, in an area likely to be seen by all persons. That notice must include an internet website link to the Database and the following text:

“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.”

If a physician is employed by a health care employer, that employer is responsible for meeting this requirement.

Beginning **January 1, 2024**, a physician who uses a website in their medical practice must conspicuously post the same notice described above in number 2 on their website. If a physician is employed by a health care employer, that employer is responsible for meeting this requirement.

Under this law, a violation of these requirements constitutes unprofessional conduct. The requirements created by this law do not apply to a physician working in a hospital emergency room. For additional information, please see the text of AB 1278.