

**- MEMORANDUM -**

DATE: March 31, 2023  
TO: Alameda County Behavioral Health (ACBH) Contracted Physicians  
FROM: Torfeh Rejali, Quality Assurance (QA) Administrator *Torfeh Rejali*  
SUBJECT: **Open Payments Database Requirements for Physicians and Surgeons**

The purpose of this memo is to notify providers of requirements for physicians and surgeons under California Assembly Bill (AB) 1278 relating to disclosures of payments.

**Background**

Existing federal law, known as the Open Payments program, requires, among other things, applicable manufacturers of drugs, devices, and biological or medical supplies to annually report to the federal Secretary of Health and Human Services certain payments and other transfers of value made to covered recipients. The federal Centers for Medicare and Medicaid Services (CMS) makes this Open Payments data available to the public via a federal government internet website.

**Requirements for Physicians and Surgeons:** On September 29, 2022, Governor Newsom signed California AB 1278, requiring physicians and surgeons:

1. Effective immediately, to provide a written or electronic notice of the Open Payments database to a patient at the initial office visit;
2. Effective immediately, to post an Open Payments database notice in each location where the licensee practices, in an area that is likely to be seen by all individuals who enter the office; and
3. As of January 1, 2024, to conspicuously post the same Open Payments database notice on its website, if applicable.

**Additional Details:**

1. The written notice shall also include a signature from the patient/patient representative and the date of the signature. Each patient or patient representative shall receive a signed and dated copy of the notice.
2. The written or electronic notice shall state: "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>."
3. In addition to the website link to the Open Payments database, the notice must also include the following text: "For informational purposes only, a link to the 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."



4. Physicians and surgeons shall include a record of the notice in the electronic records for the patient. If a physician or surgeon does not maintain electronic records, the notice shall be included in the written records.

**Frequently Asked Questions (from the [Medical Board of California](#)):**

**1. What physicians are subject to this law and are any physicians exempt from these requirements?**

The law applies to those with a “physician and surgeon” license issued by either the Medical Board of California (allopathic physicians) or the Osteopathic Medical Board of California (osteopathic physicians). The following physicians are not subject to the requirements of this law:

- Those working in a hospital emergency room
- Those who do not diagnose or treat patients in a medical office or telehealth setting
- Those practicing medicine pursuant to a Postgraduate Training License
- California licensed physicians who are practicing medicine outside of California

**2. Are physicians who do not accept Medi-Cal or Medicare payments, or who do not accept payments from drug and medical device companies, subject to the requirements of this law?**

Yes. Those physicians are subject to this law.

**3. During the initial office visit, do physicians need to obtain a signature from their patient (or their representative) for electronic notices or only for paper-based notices?**

The law does not require this but obtaining a signature for electronic notices would help confirm, if necessary, that the notice was provided to the patient.

**4. The law states that the notice must be provided "to each patient at the initial office visit." Does this mean these rules only apply to new patients? Are existing patients excluded?**

Yes, this is only required when seeing a new patient at their first office visit. This requirement does not apply to existing patients.

**5. How can I learn more or get answers to my other questions?**

You may read the bill that created this law on the [California Legislative Information Website](#) or email the Board at [webmaster@mbc.ca.gov](mailto:webmaster@mbc.ca.gov) with any questions.

**Next Steps:** Please share this important information within your organizations to ensure your organization is in compliance with the requirements of AB 1278.

For questions, please contact [QATA@acgov.org](mailto:QATA@acgov.org).

