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## New Patient Disclosure Requirement Effective January 1, 2023

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To increase transparency regarding payments to physicians by drug and medical device companies, Governor Newsom signed AB 1278, which imposes certain additional disclosure obligations on physicians. Beginning on January 1, 2023, physicians will be required to comply with new patient notice and posting requirements.

### **Notice to Patients**

Under this law, physicians must provide to patients an Open Payments database notice. The notice must be provided to each patient at the initial visit in a written or electronic form. The notice shall state the following:

"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>."

Physicians must obtain the patient's signature and date on the notice. Each patient must be provided with a copy of the signed and dated notice. Physicians must include a copy of the signed and dated notice in the patient's electronic or written record.

### **Mandatory Posting**

In addition to providing the notice directly to the patients, physicians will be required to post a notice in their office where it is visible to all individuals who enter the office. If a physician practices in more than one location, the notice must be posted at each location. The notice must include the following statement:

"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.

<https://openpaymentsdata.cms.gov>."

Beginning January 1, 2024, the above notice must also be conspicuously posted on a physician's website, if the physician uses one. In the event that a physician is employed by a health care practice, the health care practice is responsible for posting the notice on its website and in the office.

Failure to comply with the Open Payment database notice and posting requirements constitutes unprofessional conduct. The notice and posting requirements do not apply to a physician working in a hospital emergency room.

As always, our team stands ready to assist your business with all of its healthcare corporate and regulatory compliance needs. Please do not hesitate to reach out to us with questions or concerns.



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