

**Behavioral Health Services (BHS) – Information Notice**

<b>To:</b>	<b>Mental Health County Operated and Contracted Service Providers</b>
<b>From:</b>	<b>Behavioral Health Services – Quality Assurance (QA) Unit</b>
<b>Date:</b>	<b>May 1, 2023</b>
<b>Title</b>	<b>Open Payments Database Notification to Clients Requirement</b>

Effective January 1, 2023, as required by Assembly Bill (AB) 1278, during the initial office visit physicians are required to provide clients with a written or electronic notice of the Open Payments Database, which is managed by the U.S. Centers for Medicare and Medicaid Services (CMS). This requirement pertains to all physicians licensed by the Medical Board of California or the Osteopathic Board of California.

QA will begin monitoring for compliance of this requirement as part of their Medi-Cal Site Certification/Recertification process beginning Quarter 1 of FY 23-24. QA has developed an Open Payments Database Notice that should be used going forward as part of their initial paperwork when opening new clients. This form should not be modified. It will be available on the Optum Website in MH Provider Documents. Programs may create their own form, but it must meet all requirements as outlined below.

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

- 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 mandatory 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>.”*

The written notice must be signed and dated at the initial visit and:

- A copy must be provided to the client or their representative/parent/legal guardian.
  - A copy must be retained by program.
  - A copy must be maintained in the client’s medical record.
- Post a notice regarding the Database at each location where the physician practices, in an area likely to be seen by all persons. The notice must include an internet website link to the database and the following mandatory 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. It can be found at <https://openpaymentsdata.cms.gov>.”*

If a physician is employed by, or contracts with a health care employer, that employer is responsible for meeting this requirement. Programs will need to ensure that the notice is posted in an area where it can be seen by all persons.

<p><b>For More Information:</b></p> <ul style="list-style-type: none"> <li>Contact your Contracting Officer’s Representative (COR) or</li> <li>HHSA, QI Matters: <a href="mailto:qimatters.hhsa@sdcounty.ca.gov">qimatters.hhsa@sdcounty.ca.gov</a></li> </ul>
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**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. *Mandatory: The content of the website notice should be the same as the content from the posted office notices.* If a physician is employed by or contracts with a health care employer, that employer is responsible for meeting this requirement. Legal entities will be required to ensure this notice is posted on their internet website along with an internet website link to the database.

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](#).

**For More Information:**

- Contact your Contracting Officer’s Representative (COR) or
- HHSa, QI Matters: [qimatters.hhsa@sdcounty.ca.gov](mailto:qimatters.hhsa@sdcounty.ca.gov)