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March 10, 2021

Honorable Evan Low, Chair, and Members
Assembly Committee on Business & Professions
State Capitol, Room 4126
Sacramento, CA 95814

Re: AB 1278 (Nazarian)— Patient Notification of Physician Payment - SPONSOR

Dear Chairman Low and Committee Members:

The Center for Public Interest Law (CPIL) is a nonprofit, nonpartisan academic and advocacy organization based at the University of San Diego School of Law. For 40 years, CPIL has studied occupational licensing and monitored California agencies that regulate business, professions, and trades, including the Medical Board of California (MBC) and other Department of Consumer Affairs (DCA) health care boards. CPIL's expertise has long been relied upon by the Legislature, the executive branch, and the courts where the regulation of licensed professions is concerned, and we advocate for policies that ensure transparency and public protection at the highest levels. CPIL is the proud **sponsor** of Assembly Bill 1278, introduced by Assemblymember Adrin Nazarian.

AB 1278 would assist patients in making better informed decisions by requiring doctors who receive payment from a drug or device company to disclose that to their patients prior to treatment.

The patient-doctor relationship is based on trust, and requires transparency between doctor and patient to ensure that trust. This bill makes a critical element of information sharing—potential conflicts of interest—mandatory. The American Medical Association Code of Ethics sets forth the responsibilities of patients and physicians to maintain this relationship, specifically calling out the right of patients "to be advised of any conflicts of interest their physician may have in respect to their care." [1]

At present, there are no statutory mechanisms in place to ensure that physicians comply with this moral obligation. While accepting payments from drug or device manufacturers does not automatically translate into a conflict of interest, physicians failing to affirmatively disclose potentially relevant information to a patient puts the relationship at risk. In the absence of disclosure, patients may question whether their physician is placing their health and wellbeing above their own self-interest. Furthermore, patients lack complete information to weigh all factors related to their treatment. Solutions in support of the public interest often follow the premise that "sunlight is the best disinfectant." In 2010, the federal government took an important initial step to promote a more transparent healthcare system with the Physician Payments Sunshine Act (PPSA). This law made financial exchanges between manufacturers and health care providers available to the public on a

[1] American Medical Association: Patient Rights, Code of Medical Ethics, Opinion 1.1.3 (https://www.ama-assn.org/delivering-care/ethics/patient-rights) (Mar. 22, 2020).

website maintained by the Federal Centers for Medicare & Medicaid Services.[2] Thanks to PPSA, we now know, for example, that the total dollar amount of payments made to physicians and teaching hospitals in California was $ **$300,204,351** in 2019 alone. However, while drug and device manufacturers are now required to disclose payments, and that information is accessible to the public, the onus remains on the patient to know this information is available and seek out the information.

The PPSA is an important framework for transparency. Yet the information now publicly available has no bearing without the corollary requirement that the patient who needs to know about potential physician conflicts of interest receives that information. Without laws requiring physicians to disclose payments to patients prior to a procedure or treatment, amassing this information in a database fails to serve its intended purpose. The PPSA was always considered a starting place—mandating at the federal level that drug and device manufacturers report payments to physicians and hospitals. It is time to go a step further and add accountability to the transparency.

Disclosure of financial conflicts of interest by doctors is a moral obligation not enforced by law. AB 1278 would remedy this problem by mandating physician disclosure of any financial conflicts of interest to their patients, and empowering patients to make better and more informed choices about their treatment. Preceding any treatment, physicians would be required to explain their healthcare recommendation, the clinical evidence supporting it, as well as disclosing any financial ties they have to the drug or device manufacturer. The result would be strengthened trust between patients and doctors, as well as patients being fully apprised of information relevant to their care to aid them as they evaluate health care decisions.

For all of these reasons, CPIL supports and is in the sponsor of AB 1278.

Sincerely,

Bridget Fogarty Gramme

Bridget Fogarty Gramme
Administrative Director
Center for Public Interest Law
University of San Diego School of Law

[2] *See* https://openpaymentsdata.cms.gov/