Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
AB 1278 (Nazarian) – As Amended April 15, 2021

Policy Committee: Business and Professions Vote: 13 - 0
Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill requires a physician to disclose and provide notice on payments received from a drug or device company. Specifically, this bill:

1) Requires a physician who receives payment or transfer of value from a drug or device company to disclose it in writing to their patient prior to the intended use or prescription of a drug or device manufactured by that company. The disclosure covers any payment or transfer of value received on or after January 1, 2014, and requires a patient signature.

2) Requires a notice, containing information about a federal database that displays information about payments to physicians by drug or device manufacturers, to be posted in an area likely to be seen by all persons who enter the office.

3) Makes a violation of either provision unprofessional conduct.

FISCAL EFFECT:

A potential slight increase in enforcement activity may result in minor and absorbable costs to the Medical Board of California and the Osteopathic Medical Board of California (fee-supported special funds).

COMMENTS:

1) **Purpose.** According to the Center for Public Interest Law, this bill’s sponsor, disclosure of financial conflicts of interest by doctors is a moral obligation not enforced by law. The author asserts this bill would remedy the problem by mandating physician disclosure of any financial conflicts of interest to their patients, thereby empowering patients to make better and more informed choices about their treatment.

2) **Background.** Federal law requires drug and medical device manufacturers to disclose to the Centers for Medicare and Medicaid Services (CMS) payments or other transfers of value made to physicians or teaching hospitals. The intention of the law is to increase transparency regarding financial relationships between health care providers and pharmaceutical manufacturers. The data is available through the federal Open Payments database, administered by CMS, enabling patients to see if providers have received some form of payment from the manufacturer of a drug or device. Researchers examining these data have found the presence and size of payments were both correlated with the rate of brand-name prescribing, with larger payments correlated with higher rates of brand-name prescribing.
3) **Prior Legislation.** SB 790 (McGuire), Chapter 558, Statutes of 2018, would have prohibited or limited the offering or giving of gifts to a health care provider by a drug manufacturer. SB 790 was chaptered after it was amended to an unrelated subject matter.

SB 1448 (Hill), Chapter 570, Statutes of 2018, requires physicians and surgeons, osteopathic physicians and surgeons, podiatrists, acupuncturists, chiropractors and naturopathic doctors to notify patients of their probationary status beginning July 1, 2019.

4) **Support and Opposition.** Consumer advocacy organizations and other support this bill, asserting transparency will ensure patients are informed of potential financial conflicts of interest. A number of organizations representing physician specialties oppose this bill.

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