



Celebrating CAP Members, Defying Challenges, and Reaching New Milestones

As we embark on a new year, the Cooperative of American Physicians (CAP) is proud to celebrate the key milestone achievements of 2022 that serve as a testament to the strength, resilience, and success of independent physician practices across California. CAP honors our members who are more determined than ever to break barriers and prevail over healthcare-related challenges in service to their patients and the health of our communities.

"CAP's drive to succeed is motivated by a single goal: making sure our physician members have the tools, resources, and coverage they need, year after year, to remain independent and well protected. As we face new and unprecedented challenges, CAP remains committed to standing side by side with physicians to overcome these hurdles—just as we have for almost five decades."

Sarah E. Scher, JD | Chief Executive Officer

2022 Headwinds

Every year, new healthcare-related challenges arise, but 2022 was a year like no other, especially with the passage of Assembly Bill 35 (AB 35). AB 35 significantly diminishes the long-time protections provided by MICRA—the Medical Injury Compensation Reform Act of 1975—which limited the cap on noneconomic damages and attorney's fees in medical malpractice lawsuits.

CAP and its members boldly fought to raise awareness of the bill when it was introduced in early 2022. CAP made it known from the start that the legislation would likely cause a seismic shift in the medical malpractice litigation landscape. CAP continues to believe that AB 35 will significantly increase claims frequency and costs yearly and will eventually impact medical practices, healthcare expenses, and patient access to care.

AB 35 was just one of many deeply concerning issues physicians were forced to confront and recognize in 2022. From grappling with rising costs, to dealing with increased violence in healthcare settings, to managing

short-staffed operations, and facing burnout, the pressures and challenges physicians endured were truly unprecedented. Yet CAP's membership persevered.

A Year of Record-Breaking Growth

More California physicians joined CAP in 2022 than any year since 2002. Currently, nearly 13,000 physician members trust CAP to protect them and their practices with exceptional medical professional liability coverage provided through the Mutual Protection Trust (MPT). Representing the largest membership count in CAP's nearly 50-year history, this growth is a compelling indication that the independent medical practice is here to stay and remains a force to be reckoned with in California's healthcare market.

Alleviating the Pressures of Managing a Practice

To help support practice success and viability, CAP has increased its focus on members taking advantage of the wide variety of practice management programs and services to address their pressing needs.

■ **CAP Learning Forum** CAP continued to expand its robust menu of convenient online learning opportunities for all physicians, with live and on-demand webinars addressing topics like increasing practice profitability, reducing medication errors, and much more. A record-breaking 2,800 CAP members and 1,150 non-CAP members registered for these informative webinars in 2022.

■ **Risk Education and Support** Supporting members with effective risk reduction strategies is a cornerstone of CAP's renowned services. In 2022, with more than 10,000 points of contact, CAP's expert risk managers worked tirelessly to ensure that members were supported with guidance and education for preventing errors, keeping patients safe, and ultimately reducing the risk of a medical malpractice claim.

■ **Human Resources Support Services** With increasing staff shortages and recruiting and retaining good employees proving more difficult than ever, physician members continued taking advantage of CAP's robust HR support offerings, including new discounted employee background check services, free HR consulting, free mandated training programs, and much more.

■ **CAP Purchasing Alliance** By 2022, nearly a quarter of all CAP members were enrolled in the CAP Purchasing Alliance. Launched in 2016, this free program has saved members valuable time and thousands of dollars by providing access to the most comprehensive and competitively priced medical and non-medical supplies.

■ **My Practice** Nearly 1,000 CAP members took advantage of *My Practice* in 2022 to get assistance with general practice-related issues. Many benefited from free virtual practice management assessments, which are costly when conducted by outside consultants.

■ **CAP Agency** CAP Physicians Insurance Agency, Inc. (CAP Agency) continued to offer important business and personal insurance programs from industry-leading carriers. From the newly added identity theft protection

and pet insurance programs, to property and casualty insurance, life insurance, disability, umbrella, and much more ... CAP Agency ensured that members had access to critical insurance solutions all in one place for added peace of mind.

Protecting Physician Well-Being

CAP will always focus keenly on the best interests of our physician members and their well-being. In 2022, we continued to provide practical and emotional support for members who experienced a claim, lawsuit, or adverse outcome through services like our litigation education retreat, adverse event hotline, and assertive claims support and legal defense. CAP was also pleased to introduce a new benefit providing members with confidential access to expert counselors at no cost to help them navigate difficult personal and professional issues.

Looking Ahead with Optimism and Fortitude

CAP stands committed to making sure physicians have the best tools, resources, and support to remain independent and successful.

In the coming year, one of our goals is to help you prepare for the impacts of AB 35 through education about its provisions, effective risk prevention strategies to help mitigate frivolous and egregious claims, and competitive and stable rates on your medical malpractice coverage.

We continue to enhance our already expansive risk management and practice management resources and services. You can look forward to more topical and timely webinars, publications, and other programs to support an efficient practice operation and healthy bottom line.

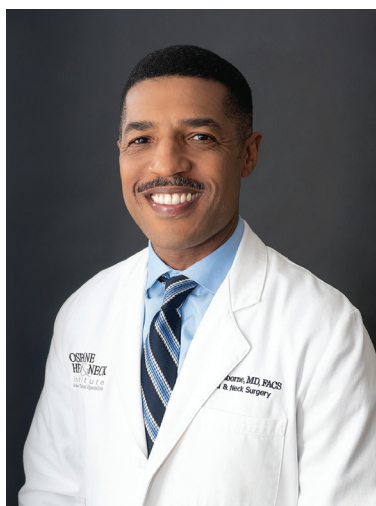
CAP is proud to celebrate our members for their dedication to the practice of medicine and perseverance in keeping the independent practice alive. We look forward to supporting you through these transformational times and well into the future. ➦

2022 CAPtivating Causes Awards Honoring Two Physicians for Their Far-Reaching Contributions

Caring for patients locally, helping humanity globally. This aptly describes both Ryan Osborne, MD, FACS, and Shannon Cheffet, DO—the 2022 recipients of CAP’s **CAPtivating Causes Community Hero and Community Leadership Awards**.

For the fourth consecutive year, CAP is proud to pay tribute to member physicians who have made

extraordinary contributions to their community and beyond. This year, we honor Dr. Osborne and Dr. Cheffet who both personify the spirit of giving by providing critically needed medical care and services to the men, women, and children in some of the world’s most underserved countries.



COMMUNITY HERO AWARDEE

Ryan F. Osborne, MD, FACS Otolaryngologist
Founder and President of Osborne Head & Neck Foundation
Los Angeles
CAP Member Since 2003

Building Connections Between People and Their Communities

The Osborne Head & Neck Foundation is a community service nonprofit that embodies the values of its founder Dr. Ryan Osborne: kindness, generosity, and service to improve the health of communities through medicine, education, and business development.

With the support from its donors and network of volunteers, the Foundation focuses on improving access to ear, nose, and throat (ENT) health services; head and neck surgical care; mentoring youth leaders; advancing child welfare and development; and growing socially and community conscious businesses.

Each year, the Foundation organizes a humanitarian aid project in a community located in a developing part of the world. Since 2016, the Foundation has opened ENT clinics in Ethiopia, India, Belize, and Peru, and has supported local efforts to improve the quality of life for some of the poorest communities in the world. In these areas, the Foundation helps to provide lifesaving surgical care for families without access to ENT specialists, train local physicians, supply hospitals with needed medical equipment, and partner with orphanages to improve the lives of children most vulnerable in these communities.

CAP is pleased to gift \$5,000 to the Osborne Head & Neck Foundation so that Dr. Osborne and the organization may continue their life-changing work.

For information or to support the Foundation, visit <https://ohnifoundation.org>.

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COMMUNITY LEADERSHIP AWARDEE

Shannon K. Cheffet, DO

Internal Medicine and Pediatrics

San Diego

CAP Member Since 2013

Bringing Guidance and Healing to the Remote Villages of Zambia

Last August, traveling with only a small carry-on for personal belongings and a larger case for medical supplies, Dr. Shannon Cheffet headed to Zambia in Southern Africa on a philanthropic journey, which auspiciously coincided with the 20th anniversary of her graduation from medical school.

Dr. Cheffet took part in a volunteer program sponsored by International Medical Relief (IMR), a nonprofit organization that provides healthcare to underserved and vulnerable people around the world.

Over a five day period, Dr. Cheffet joined an international group of physicians, physician assistants, nurse practitioners, registered nurses, dentists, and others to serve more than 1,200 people across several remote villages in Zambia. In addition to providing more than 300 pairs of reading glasses, they administered treatment for various infections, allergies, and dry eye. They also counseled patients on proper stretching exercises to relieve musculoskeletal pain.

Dr. Cheffet believes that to deliver the best care, it takes providers who are willing to step outside of the comforts of technology and rely on their years of training and experience to help those seeking guidance and healing. "With a focused vision and team of dedicated volunteers, international medical service trips can fulfill a great need for quality care to so many people," she says.

CAP is proud to donate \$1,000 to IMR in honor of Dr. Cheffet's dedication and commitment to this extraordinary cause.

To support IMR or for more information about volunteer opportunities, visit <https://internationalmedicalrelief.org/>.

Congratulations, Dr. Osborne and Dr. Cheffet! ➦

Risk Management — and — Patient Safety News



"Counts Are Correct": Retained Foreign Objects

by CAP's Risk Management and Patient Safety Team

You've heard of cases where scissors, retractors, forceps, sponges, and other items get left behind in patients during surgery. It is natural to wonder, *"How does that happen?"* At times, surgical/operating room (OR) math just doesn't add up. Considering the risk of "fuzzy math," we've picked up on a few things we thought would be good for all surgeons to know.

Naturally, surgeons must be aware of the existing procedures and protocols for surgical tools, sponges, needles, etc., at their facilities. Most critically, these cases can have a lasting effect on the course of a surgeon's career because federal statutes require reporting of claims with payments to state medical boards and the National Practitioner Data Bank (NPDB).

Secondly, there is an emotional impact when a surgeon learns his or her patient has a retained foreign object. That response may be influenced by the realization of the potential claims impact and likelihood the surgeon may be responsible for the acts or omissions of others in the surgical theater. This "Captain of the Ship" legal doctrine has been successfully challenged in some states, yet it continues to play a role in California "retained foreign object" cases.

Case Examples

Mr. X underwent a colostomy reversal and the surgical count at the time of closing the abdomen was reported by the OR staff to the general surgeon as "correct," both before and after closing. Several years later, Mr. X began to experience hip pain and went to see an orthopedist.

A pelvic X-ray revealed that a pair of scissors was left behind during the abdominal surgery.

In another case, a post-renal cancer patient underwent "routine" screening by MRI that revealed a surgical sponge in the retroperitoneal space. The patient was asymptomatic throughout the post-surgical period at all office encounters. During the second surgery, the surgeon noted the sponge to be imbedded into the surrounding tissue and concluded that dissection would be more harmful to the patient than leaving it alone and left it in the patient. In the ensuing medical malpractice claim, the patient's lawyer asserted his client had significant discomfort over the post-surgical period and that since the sponge could not be extracted, he would be forever in pain.

While neither patient had any complaints until discovery of the object, the patients and their attorneys would subsequently argue otherwise. Even cases in which there appears to be limited or benign effect, the retained object can have serious consequences.

Given the legal environment, it is crucial to reemphasize simple "habits" that protect both the patient and the OR team. These strategies envision clear communication of the counting processes and careful recording during the procedure as well. Moreover, documentation of the patient's postoperative behaviors will aid your defense team should you become involved in a retained foreign object case.

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In closing, CAP recommends the following risk mitigation and patient safety measures:

- Understand whose job it is to perform the surgical count and what he or she will be counting. Communication must be crystal clear.
- Ensure OR staff have adequate, uninterrupted time to focus on the surgical counts. Disturbing their concentration while performing this critical task increases the risk of error.
- Conduct a visual and manual sweep, as appropriate, of the surgical site during the procedure and before closing.
- Use wands and scanners for radio-frequency identification (RFID) tagged items like sponges and X-rays, as needed.
- Utilize a double-blind count process by two separate team members. Teaming a critical task with a second person of the same skill set significantly improves accuracy.
- The count should be conducted before closing—and then again afterwards. In a double-blind count, that is four times.
- Likewise, document in the Operative Report the reported count (i.e., “correct count”) before closing—and then secondly after closing.
- Instruct that the surgical count include an inspection to confirm the physical integrity of the tools and that they appear intact—no broken or missing parts left behind. If you encounter a latent retained foreign object case, note (or quote) in the medical record if the patient is truly asymptomatic.
- Consider participation on a quality improvement committee at the location where you perform surgery.
- Advocate for improved technologies that reduce the risk of retained foreign objects.
- Call the CAP Cares Team at 800-252-0555 if your patient experiences a retained foreign object. ➦

Questions or comments related to this article should be directed to RiskManagement@CAPphysicians.com.



Case of the Month

This month, we feature a popular “Case of the Month” from the archives written by CAP’s former General Counsel Gordon Ownby



Plaintiff Gets Leeway in Timing of Suit Against Subsequent Treater

Determining when a plaintiff must act to sue a healthcare provider is a topic of longstanding interest in California’s courts. A featured case adds a twist: Does a patient suing a subsequent treating physician get additional time to sue?

On April 22, 2013, Judith Brewer underwent carpal tunnel and shoulder surgery. Early the next morning, she became paralyzed and sought emergency treatment from Benjamin Remington, MD, a neurological surgeon. Tests revealed Ms. Brewer suffered spinal cord syndrome, cervical spine stenosis, paraplegia, and incontinence. According to the allegations relied on in the Court of Appeal opinion, Dr. Remington performed spinal compression surgery on Ms. Brewer on May 30, 2013, after waiting for a reduction in the patient’s swelling. After the surgery, the patient allegedly regained some movement in her arms and legs but did not fully recover.

Judith and Michael Brewer filed a medical professional liability lawsuit against Brewer’s original surgeon, the anesthesiologist, the hospital, medical clinic, and “Doe” defendants within the statute of limitations period under the Medical Injury Compensation Reform Act (MICRA). “John” or “Jane Doe” defendants are intended to allow a plaintiff to add codefendants to a suit once their identities become known.

As the case proceeded, the plaintiffs obtained medical records and had those records reviewed

by a medical consultant. On July 20, 2015, Brewer’s expert, a neurological surgeon, opined that Dr. Remington breached the standard of care by not immediately commencing with surgery to decompress Brewer’s spine. According to the expert, Dr. Remington’s delay was a significant factor in causing her ongoing neurological deficits.

After receiving the report, the plaintiffs filed a “Doe amendment” on July 24, 2015, filling in Dr. Remington’s name as a new codefendant in the ongoing lawsuit. Dr. Remington filed a motion for summary judgment in the trial court, claiming that the lawsuit was barred by the one-year statute of limitations. In his motion for a dismissal, Dr. Remington argued that Ms. Brewer knew his identity and all of the facts giving rise to the claims against him by April 23, 2013, and certainly by May 30, 2013, when he performed the spinal decompression surgery.

The Brewers argued that Dr. Remington was added as a defendant as soon as they learned that his (alleged) failure to immediately perform the spinal decompression surgery may have precluded Ms. Brewer from recovering more of her abilities and caused her injury to become permanent.

Importantly, plaintiffs argued that the nature of Dr. Remington’s alleged negligence provided no basis for Brewer or her counsel to suspect Dr. Remington had breached the standard of care and contributed to the plaintiff’s neurological injury.

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The California law in question is Section 340.5 of the Code of Civil Procedure, which imposes a one-year limit to bring a lawsuit against a healthcare practitioner when a plaintiff suspects or has reason to suspect that her injury was caused by wrongdoing. The Brewers' argument is that prior to getting an expert opinion, Ms. Brewer and her counsel had no suspicion of wrongdoing by Dr. Remington. Once they received the expert's report, they added Dr. Remington's name immediately.

Dr. Remington in turn argued that it is the suspicion that *someone* was negligent that commences the statute of limitations and triggers the plaintiff's duty to investigate—not when the plaintiff discovered precisely *how* a defendant was negligent.

In considering the motion for summary judgment, the judge at the trial court level said that whether Ms. Brewer should or should not have suspected negligence prior to getting the expert opinion is a factual issue (which cannot be decided by a judge via summary judgment) and not a legal issue (which can). When the case reached the Central California Court of Appeal in *Brewer v. Benjamin Remington*, the appellate court explained how the courts view such a distinction: "[W]henever reasonable minds

can draw only one conclusion from the evidence, the question becomes one of law." But because there could be more than one reasonable conclusion on the plaintiff not suspecting within a year of his treatment that Dr. Remington caused her injury, the Court of Appeal supported the trial court's determination that there were factual issues to be decided.

"Remington argues Judith's statute-commencing injury was her paralysis and loss of sensation during and after his medical care, which was apparent and appreciable throughout his treatment of her as well as after the spinal decompression surgery. Plaintiffs argue Judith suffered a second injury by Remington's delay of the spinal injury, and it is a factual issue whether there was any appreciable harm plaintiffs should have discovered prior to July 2015 from which they reasonably should have suspected Remington had done something wrong. We agree with plaintiffs." ✦



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5 Smart Insurance Coverages to Protect Your Practice and Your Home

As a busy physician, the better protected you are from life's uncertainties—be it at the office or at home—the more time you can spend with your patients and on other priorities.

CAP Physicians Insurance Agency, Inc. (CAP Agency) provides a variety of insurance products that can be purchased all in one place at competitive rates for added peace of mind protection. Even if you already have coverage, you may not have enough and may be spending too much. Learn more about why the following coverages are critical for a well-protected practice and home.

Workers' Compensation Insurance

All physicians in California with at least one employee must carry workers' compensation insurance to cover workplace illness or injury. CAP Agency's comprehensive coverage options can help minimize any disruptions in your practice should an accident or illness occur. Even if you already have workers' compensation insurance, CAP Agency may help you beat your current rates.

Employment Practices Liability Insurance (EPLI)

EPLI protects against the defense and indemnity costs of lawsuits brought by employees, former employees, job applicants, or other third parties alleging discrimination, wrongful termination, and harassment, among other claims. Employment-related claims are on the rise and the cost to physicians can be staggering—whether or not you are at fault. Good EPLI coverage is now more imperative than ever.

Business Owner's Policy (BOP)

A BOP combines such areas as business liability, building and business personal property, employee dishonesty, and more, into a package that is typically less costly than purchasing the coverages individually.

As a CAP member, you receive low rates on enhanced coverage, which includes the installation of a free water sensor program to help prevent potentially devastating water damage.

CyberRisk Liability Coverage

Experiencing a cyberattack not only affects your bottom line, but could also be detrimental to the well-being of your patients. CyberRisk liability coverage adds another layer of protection, by giving you up to \$1 million in additional coverage plus free HIPAA and security training.

Umbrella Insurance

Your home and auto insurance policies only cover so much. That's where umbrella insurance becomes essential. A good umbrella insurance policy will provide extra coverage for the high costs associated with bodily injury liability, property damage liability, landlord liabilities, libel, defamation, and more.

CAP Agency is a full-service insurance agency created to support CAP members with their insurance needs. The licensed, trained professional insurance agents with CAP Agency have expertise in all lines of business and personal insurance coverage, and they know healthcare. They can provide you with a comprehensive review of your risk exposures, assess your current coverage, and provide you with comparative, competitive quotes at no cost to you.

To learn more, contact CAP Agency at:

Phone: **800-819-0061**

Email: **CAPAgency@CAPphysicians.com**



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Start 2023 with a Free Practice Assessment

A regularly scheduled practice evaluation can help you stay ahead of policies and procedures that support optimal business performance and a healthy bottom line, even when you think your practice is running like a well-oiled machine. It may seem obvious, but clinical excellence aside, the care you provide for your patients may be impacted by the efficiency and effectiveness of your practice operations.

As an exclusive benefit of your membership, you have access to *My Practice*, CAP's free practice management and business services solutions program. In addition to being available for general practice-related inquiries, *My Practice* offers CAP members a free virtual practice management assessment.

The new year is a good time to get your free practice evaluation and get a head start on improving any areas that might need your attention. An outsider's perspective can identify areas that need improvement to help your practice realize its full potential.

Here's what you can expect to review during your consultation:

- Guidance on specific practice-related challenges
- The appointment scheduling process
- Patient intake protocols
- Patient check in/check out best practices
- Billing, collections, and accounts receivable workflows
- Patient communications management, and much more!

Practice management consultants are costly, and the results may not always meet your expectations. Through *My Practice*, you can take advantage of free practice management services, including your practice management virtual assessment.

This service is different from CAP's popular Risk Management Practice Survey and is a great way to become more familiar with all that is available to you through your CAP membership.

My Practice was created as part of CAP's commitment to providing you with valuable products, services, and resources to support a safe and successful medical practice, so you can spend more time focusing on superior patient care.

You or any of your employees may contact Andie Tena, Director of Practice Management Services, at ATena@CAPphysicians.com or at 213-473-8630, to get started with your free practice evaluation or to get help with any practice-related challenges, no matter how big or small. ➦

Andie Tena is CAP's Director of Practice Management Services. Questions or comments related to this column should be directed to ATena@CAPphysicians.com.

CAP Legislative Advocacy: A Year in Review

by Gabriela Villanueva

As a physician-led organization, CAP is committed to staying one step ahead of emerging healthcare-related regulatory and policy changes and defending a physician's ability to provide quality patient care and run a viable practice. This past year, CAP had the opportunity to convey its position on a number of critical issues on behalf of its nearly 13,000 physician members.

When Assembly Bill 35 (AB 35) was introduced in the spring of 2022, CAP took immediate action to raise awareness around the potential legislation. AB 35 would significantly increase the \$250,000 cap on noneconomic damages (pain and suffering), create additional caps for noneconomic damages, and substantially increase the attorneys' fees recoverable in medical malpractice lawsuits. These changes fundamentally alter the important limits and protections previously afforded under the Medical Injury Compensation Reform Act of 1975 (MICRA).

Even though AB 35 later passed, CAP successfully mobilized more than 1,300 physicians to contact their state senator and/or assemblymember to express opposition to the bill, a significant response and a powerful testament to the willingness of CAP members to participate.

In addition to CAP's efforts around AB 35, there were other occasions in 2022 where CAP's public affairs team advocated on issues important to our members. Here are some highlights:

- **December 2021:** CAP issued a formal position letter to Secretary Xavier Becerra of the Department of Health and Human Services advocating against the burdensome requirements placed on providers in the Surprise Billing Interim Final Rule.
- **February 2022:** CAP banded together with other members of the Health Coalition on Liability and Access in a letter to the Chairs of the Congressional

Health, Education, Labor and Pensions (HELP) Committee to comment on the discussion draft of the Prepare for and Respond to Existing Viruses, Emerging New Threats, and Pandemics Act (PREVENT).

- **March 2022:** CAP sent a position letter to state Senator Melissa Hurtado in opposition to her bill SB 920 that would have significantly overhauled how the Medical Board of California conducts investigations into complaints filed against physicians. This bill would have authorized the Medical Board to legally use alternate avenues to obtain confidential medical records, weakening patient privacy rights. The bill proposal was defeated.

- **November 2022:** CAP sent a letter to every member of the California delegation of the House of Representatives regarding the severe proposed cuts in Medicare reimbursement for Calendar Year 2023 in the Medicare Physician Fee Schedule. There is a high likelihood that by the time this article is published, Congress will have passed language during the "lame duck" session in December to avoid or reduce some of the more drastic reduction percentages in reimbursement.

To view the letters submitted by CAP, please visit:
www.CAPphysicians.com/Letters22

As we look ahead to 2023 and beyond, with the support and participation of our physician members, CAP is well-positioned to continue having a solid and active influence over issues impacting healthcare delivery, the viability of independent medical practices, and patient access to care. ➦

Gabriela Villanueva is CAP's Government and External Affairs Analyst. Questions or comments related to this article should be directed to GVillanueva@CAPphysicians.com.

Open Payments Program: Critical Information for Medical Practices

by Andie Tena

You may have recently become aware of the **Open Payments Program**, previously called **The Sunshine Act**, through the California Medical Board and may be asking, "What is it and how does it affect my practice?"

The Open Payments Program (aka Sunshine Act) supports transparency in public reporting of payments made to physicians, and now newly added covered recipients by drug and medical device companies.

This reporting is made through a data collection site that the public can access and search at:

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

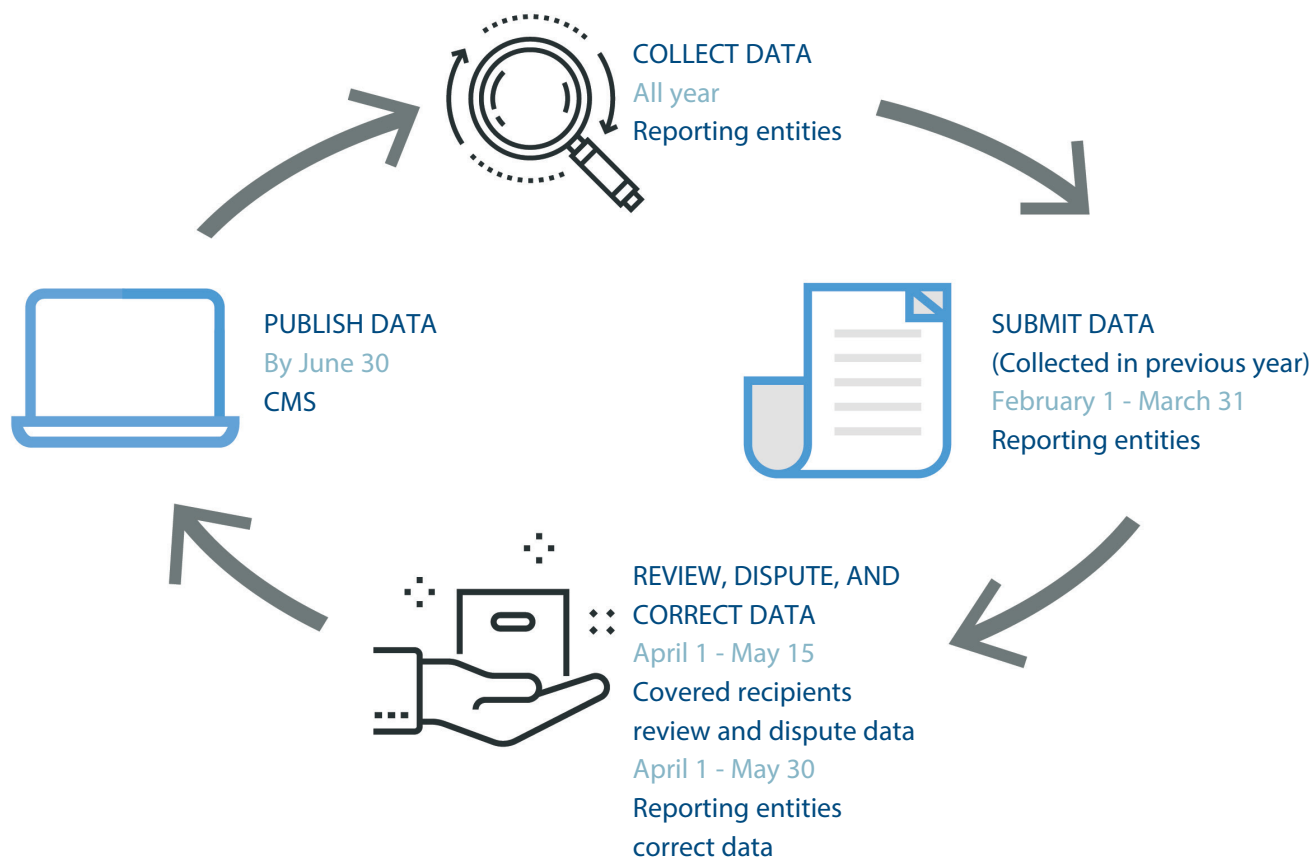
The data are updated annually and covered recipients (physicians, physician assistants, nurse practitioners,

clinical nurse specialists, certified registered nurse anesthetists and anesthesiologist assistants, and certified nurse-midwives) have the opportunity to register for the portal and review the data and dispute payments they disagree with. You can visit the portal here: <https://www.cms.gov/OpenPayments/Program-Participants/Covered-Recipients/Review-and-Dispute>

The timeline for the Open Payments Calendar highlights important dates in the data collection and reporting process:

<https://www.cms.gov/openpayments>

OPEN PAYMENTS CALENDAR



Effective January 1, 2023, the covered recipients have a responsibility to notify patients or their representatives that there is a public database on Open Payments and inform them on how to access the data by **posting the following notice in every location in which the physician or covered recipient practices in an area likely to be seen by all patients:**

“For informational purposes only, a link to the federal Centers for Medicare and Medicaid Services (CMS) Open Payments web page is provided here.

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

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.”

To download a sample template of the required office posting, please visit: www.CAPphysicians.com/OpenPaymentsOffice

Additionally, effective January 1, 2023, upon their initial visit of the year, all patients need to be notified electronically if an electronic system is used (EHR/patient portal/HIPAA secure text messaging) and a record kept of the notification. If a paper-based chart system is used, the patient must be notified via a paper document with the ability to date and sign the document. The original should be placed in the paper chart and a copy given to the patient or representative.

The following verbiage is to be provided to every patient (or their representative) either electronically or in written form:

“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.>”

To download a sample template of the required patient notification, please visit: www.CAPphysicians.com/OpenPaymentsPatient

Lastly, by January 1, 2024, if a covered recipient utilizes a website, the patient notification verbiage that is posted in the office/clinic, must also be posted on the website in a conspicuous location.

Resources are available for covered recipients at the following links:

<https://www.cms.gov/OpenPayments/Program-Participants/Covered-Recipients>

<https://www.cms.gov/files/document/open-payments-overview.pdf> ➦

For more information, please contact Andie Tena, Director of Practice Management Services, at ATena@CAPphysicians.com or at 213-473-8630.



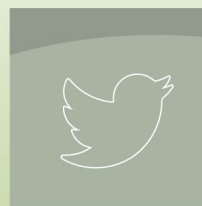
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The information in this publication should not be considered legal or medical advice applicable to a specific situation.
Legal guidance for individual matters should be obtained from a retained attorney.

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