

Alberta Doctors' Digest

Alberta physicians' sunshine list

The Alberta government recently decided to include physicians in its salary and severance disclosure table, colloquially referred to as the “sunshine list.” This list sets out the salary and severance data for Government of Alberta employees that receive compensation above the annual threshold. For 2020, this threshold is \$113,400.

During the course of difficult negotiations between Alberta Health and the AMA, the government had publicly threatened to disclose the income of physicians billing the Alberta Health Care Insurance Plan in order to verify the government’s claims that Alberta physicians are the highest paid in Canada. As public pressure on the government built to resolve the differences (following the minister’s termination of the AMA agreement in February 2020), the government’s threat to disclose became more immediate.

To enable the disclosure of physician billing information, the government quickly passed the necessary legislation. In particular, in 2020, the Alberta government amended the *Alberta Health Care Insurance Act* and enacted the *Physician Payment Disclosure Regulation*. Together, these require that the minister disclose the fee-for-service benefits paid to a physician each year, subject to certain exemptions. The Act provides that the health minister’s collection, use and disclosure of the information will prevail over any inconsistent provincial legislation other than the *Alberta Bill of Rights*.

The Act and the Regulation grant the government the legislative authority to collect and disclose physicians’ personal information relating to their inclusion on the sunshine list. The Act and the Regulation do, however, prevent the disclosure of patient information other than in a broad sense, e.g., identifying the scale of a physician’s patient panel.

Interestingly, many other Canadian provinces already include physician payment information in their sunshine lists. For example, the British Columbia government website currently allows members of the public to view physician payment information by name from 2001 onwards. Manitoba, Ontario, New Brunswick and Prince Edward Island publicly disclose varying levels of physician compensation information and Newfoundland and Labrador is soon to follow.

Information to be disclosed

The Alberta minister of health stated that Alberta will provide the most comprehensive information on physician payments of the Canadian provinces. The *Physician Payment Disclosure Regulation* authorizes the minister to disclose the follow information to the public:

- name of the physician
- city or town in Alberta where the physician provided the majority of their service
- any areas of specialty
- total number of discrete individual patients seen by the physician during the year
- total number of days the physician provided services in the year

- name of any person or organization that the fee-for-service was paid to (such as the physician's clinic or another practitioner) and the amount paid to that person or organization

The first round of disclosure covers the period from April 1, 2017, to March 31, 2020, and was to be made available online on November 9, 2020 (note: that has not yet happened as of this writing).

Other information collected (for example information included in an exemption application) is not currently authorized to be disclosed under the legislation.

Exemptions

The exemption application process closed on October 7, 2020. Exemption applications regarding inclusion in future lists are due on January 1 of each year. From the government materials published to date, it appears that it will be extremely difficult to obtain an exemption.

Albertans will certainly know more once the first round of exemptions have been decided, however, at the moment, under the Regulation and associated government materials, the only legitimate reason for obtaining an exemption is for specific evidence-based, safety-related concerns. The physician applying must show that the publication of the information will create an undue safety threat to the physician. If and how possible threats to family members will play into this process is currently unclear.

Any information provided by a physician in an application for an exemption is collected under section 33(c) of the *Freedom of Information and Protection of Privacy Act*. Under this Act, Alberta Health is required to protect the information provided against unauthorized access, collection, use and disclosure and may only disclose the information under the limited circumstances prescribed in the Act.

If a physician successfully obtains an exemption, that exemption will expire after five years. The physician will then need to reapply by January 1 of the year that the exemption is expiring.

Editor's note: The views, perspectives and opinions in this article are solely the author's and do not necessarily represent those of the AMA.

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