

Orange
County Association of
Health
Underwriters

Volume 12, Issue 1
Sept./Oct. 2017



NOVEMBER

COUNTY OF ORANGE INSURANCE NEWS



South Orange County SB-562 Town Hall Meeting



More Coverage and Photos Inside This issue!



**Senior
Summit
Panel
2017**

Inside this Edition:

- **Feature Article: *HIPAA Compliance For Business Associates***, By Marilyn Monahan, Monahan Law Office
- **Compliance Corner—*Legal Briefing; Privacy & Security Updates and Enforcement*:**
- **Event Coverage: *South OC Town Hall Report & Photos; Angel Game Photos; Medicare Summit***
- **CE Day—7 CEU's! See the entire program schedule inside!**
- **PAC Report—PAC 101!**
- **October Meeting—Hold the Date!**
- **Membership News**
- **OCAHU Board of Directors**
- **Schedule of Events**

Join Us For OCAHU's

Annual CE Day

September 19, 2017

Featuring 7 CE Units!!!

How to Grow Your Business

7:30 –4:30

See Page 13 for Details!!!

This Issue's Feature Article:

***HIPAA Compliance for
Business Associates***

**A Legal Perspective From
Marilyn Monahan, Monahan
Law Office**

***Agent/Business Associate's
Responsibilities, Your Risks
and Action Plan!***



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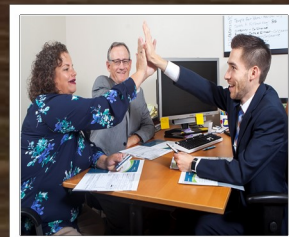
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Full Event Information on Page 13!

Making a Difference in People's Lives.

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Our association is a local chapter of the National Association of Health Underwriters (NAHU). The role of OCAHU is to promote and encourage the association of professionals in the health insurance field for the purpose of educating, promoting effective legislation, sharing information and advocating fair business practices among our members, the industry and the general public.



Letter from OCAHU President, Juan Lopez

It is my honor and a privilege to serve as your president this coming year. I want to congratulate the prior board of directors for an outstanding job on

behalf of our chapter members. We recently returned from the June NAHU National Convention in Florida where the Orange County chapter won the prestigious overall national membership award (special thanks to Tracy and Lynn), as well as recognition for our philanthropic programs, by winning the William H Flood Award (special thanks to Pat and John). In addition, Orange County was recognized as a national "Pacesetter," which distinguishes a chapter's all-around excellent operations (special thanks to Sarah).

I'd like to thank Maggie Stedt for her service as our President for the passed two years; her leadership has placed our OC chapter at the top amongst all of NAHU. Maggie has set the bar high for all of us to follow, and we look forward to the challenge.

Our Board of Directors has come out of the gates fast and furious. We have completed our annual strategy meeting in June and have set our goals high to build on our prior achievements. In July we completed two events: Our annual PAC Angles baseball game outing (special thanks to Ryan) was a night of fun. Dan Abrams organized the South Orange County educational Town Hall meeting on "Signal Payer" in partnership with the Laguna Niguel Chamber Of Commerce, where we had over 140 attendees. Nolan broadcasted this town hall meeting on "Face Book Live," which I believe was a first for us.

We have planned great events in August and September. Maggie was our Chairperson for our August Medicare Summit, with over 60 exhibitors and 550 attendees. MaryAnn Turtanich has planned a HUGE CE day on September 19, with 7 CEs to

"Help Grow Your Business." Rob and Joe will pack a one-two punch by coordinating our legislative efforts with our PAC and HUPAC needs, in order to protect our industry as things change in Washington DC and Sacramento. Finally, Dorothy Cociu has raised the bar with the publishing of our ever-improving "COIN" newsletter; while Nolan Warriner will increase our visibility and engagement with "Social Media" with all of your help.

As you can see, your award winning Board of Directors are working hard to provide you, our members, the best events, legislative updates, advocacy, programs and fun to keep you ahead of your competition. I look forward to a great year, and with your help and involvement in our committees, we will achieve our goals.

Help us by joining one of our committees....

- Women in Business
- Golf
- Legislative
- PAC
- Membership
- Communications/Newsletter
- Social Media
- Business Development
- Professional Development
- Awards
- Vanguard

Editor's Note: If you want to join a committee, please contact the appropriate board representative. See page 16 for the complete board list!

South Orange County Town Hall Meeting Photos





Feature Article:

HIPAA Compliance for Business Associates

By Marilyn Monahan, Monahan Law Offices

Most benefit consultants come into contact with “protected health information” (PHI), and therefore will be considered “business associates” under the Health Insurance Portability

and Accountability Act of 1996 (HIPAA) Privacy Rule, Security Rule, and Breach Notification Rule (the “Rules”). Under the Rules, it is a business associate’s legal obligation to ensure that PHI is safeguarded and is not accessible to those who do not have a right to access it.

Apart from the legal obligations imposed by the Rules, there are business reasons it is important to protect client data. A strong privacy and security policy will increase client confidence, and use of advanced technology and systems could set a consultant apart from his or her competitors.

What Is a “Business Associate”?

When studying the Rules, it is helpful to start by defining some key terms. Preliminarily, it is important to understand under what circumstances a benefit consultant might be considered a business associate subject to the Rules.

A “business associate” is defined as a person or entity that “creates, receives, maintains, or transmits” PHI on behalf of a “covered entity.” A “covered entity” is defined as (a) a health plan (including fully insured plans, HMOs, and self-funded employer-sponsored plans), (b) a health care provider (that transmits health information electronically), or (c) a health care clearinghouse. Some common examples of business associates include persons or entities that provide legal, actuarial, consulting, data aggregation, management, accreditation, or financial services to or for a covered entity.

What Is PHI?

PHI is “individually identifiable” “health information” that is created or received by a covered entity and that relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to the individual, or payment for the health care to the individual. Such health information is “individually identifiable” when it specifically identifies the individual or when enough information is provided that there is a reasonable basis to believe the information can be used to identify the individual.

PHI can be in written, oral, or electronic form. Electronic PHI (or ePHI) is PHI that is either transmitted by or maintained in electronic media. The Privacy Rule applies to PHI in all forms; the Security Rule adds an extra layer of compliance requirements

for ePHI.

The Business Associate Agreement

Under the Rules, a business associate may only use or disclose PHI to the extent it is permitted to do so by the terms of the written business associate agreement (or “BAA”) it has entered into with a covered entity. Further, a covered entity may not disclose any PHI to a business associate unless a written BAA is in place. The Rules describe the terms that must be included in a valid agreement. [HHS has issued model language that provides a starting point for drafting a BAA.](#)

The Privacy and Security Rules were updated in 2013 to incorporate changes mandated by Congress when it passed the HITECH Act. These updates included changes to the sections in the Rules governing the content of BAAs. As a result of these changes, BAAs in place prior to 2013 must be replaced.

Privacy Rule

Business associates are required to comply with certain specific sections of the Privacy Rule. Best practices require the business associate to comply fully with the Rule in order to ensure that PHI (oral, written, and electronic) is fully protected.

Preliminarily, a Privacy Official should be appointed. This individual will oversee the development and implementation of the business associate’s Privacy Rule policies and procedures, and will also be the contact person for anyone who has a complaint concerning the use or disclosure of his or her PHI.

An essential component of a strong implementation plan is to develop administrative, technical, and physical safeguards to protect the privacy of PHI. Safeguards will vary from office to office, but some common choices including limiting access to offices containing PHI, locking file cabinets, limits on taking PHI off-site, and proper PHI disposal.

Business associates should also assess which members of staff need access to PHI and how much access each person needs. If an employee does not need access to PHI in order to perform his or her job, that person should *not* be given access. If an employee only needs access to a limited amount of PHI, safeguards should be put in place to ensure

Continued on Page 7

that individual only has access to the amount of PHI necessary to perform his or her job. All employees who do have access to PHI must go through training so that they understand what their obligations and responsibilities are under the Rules.

A business associate should document in a manual the policies and procedures it develops to protect PHI and to address the requirements of the Privacy Rule. These written policies and procedures should be reviewed periodically and updated to ensure that PHI remains adequately protected consistent with the Rules.

Security Rule

The Security Rule protects electronic PHI (or ePHI). The goal of the Security Rule is to protect the “confidentiality, integrity, and availability” of ePHI, and to protect against reasonably anticipated threats, hazards, and unauthorized uses and disclosures of ePHI. As with the Privacy Rule, a Security Officer should be appointed, a written policy and procedure manual should be drafted and implemented to ensure that ePHI is protected consistent with the mandates of the Security Rule, access to ePHI should be limited, safeguards should be implemented, and employees should be trained.

Before the policy and procedure manual is drafted, however, the most critical step a business associate must take is to conduct a “risk analysis.” Not only is a risk assessment required by the Rule, but in the event of an audit, the regulators will ask to see it, and an effective set of policies and procedures cannot be developed without it. The risk analysis process involves conducting “an accurate and thorough assessment of the potential risks and vulnerabilities to the confidentiality, integrity, and availability” of ePHI held by the business associate. For example, consider where and how ePHI is transmitted and stored, whether current practices might make ePHI vulnerable to unauthorized access or use, and what steps should be taken to correct those vulnerabilities.

When conducting a risk analysis, think carefully about all the places ePHI could be lurking. ePHI might be stored not only on hard drives and servers, but also on mobile phones, flash drives, home computers, and cloud storage facilities. Policies and procedures should be developed for each transmission methodology and type of storage media in use.

Because of the technical issues involved, complying with the Security Rule may be more complicated and time consuming than complying with the Privacy Rule. Technology changes constantly, and keeping up with the latest security features can seem daunting. The Department of Health and Human Services (HHS) has a lot of information available on complying generally with the Security Rule, but this is an area where a business associate might want to bring in outside help to set up an effective security plan.

One essential tip for business associates to keep in mind: limit vulnerability by limiting exposure. For example, do not download ePHI to a particular device (a home computer or flash drive, for example) if it is not absolutely necessary. Monitor mobile technology (cell phones and laptops, whether employee- or company-owned) at all times, and know how to react if a mobile device is lost or stolen; many reportable data breaches have occurred because a laptop was stolen from the trunk of a car.

One final note about the Security Rule: consider whether it is cost effective for your business to purchase a cyber liability policy.

Breach Notification Rule

If a covered entity or business associate experiences a “breach” of unsecured PHI, notice must be provided to the affected individuals and HHS. HHS publishes this information on its website. In some cases, if the breach involves a certain number of individuals, notice must also be provided by the covered entity to the media.

“Breach” means the “acquisition, access, use, or disclosure” of PHI in a manner not permitted by the Rules. A breach may occur if PHI is mailed or emailed to the wrong person or entity. A breach may occur if a laptop, server, or mobile phone is lost or stolen. A breach may occur if a system is hacked. If a business associate discovers a breach, the business associate must notify the covered entity so the notice process can begin.

The consequences of a breach can be significant and damaging. Putting in place strong and effective policies and procedures that address the mandates in the Rules will help protect against breaches. Business associates are also advised to have an incident response plan in place so that if a breach occurs the business associate can act quickly and minimize the impact.

Subcontractors

A subcontractor is a person or entity “to whom a business associate delegates a function, activity, or service.” If a subcontractor “creates, receives, maintains, or transmits protected health information on behalf of the business associate,” the subcontractor must comply with the Rules. Further, under the Rules, a business associate cannot delegate any of its functions, activities, or services to a subcontractor until that subcontractor agrees, through a written contract, to safeguard PHI. The mandatory terms in the business associate/subcontractor agreement parallel those that must be included in the covered entity/business associate agreement.

It is critical for a benefit consultant to review its business relationships to determine whether it has subcontracted



Joe Partise, V.P. Political Action Committee

PAC 101!

As we begin a new fiscal year with our Association, it is a good time to review some of the basics. We hear the terminology "PAC" used

frequently, but do all of us understand its purpose and how it relates to NAHU/CAHU/OCAHU? For those members who have been around a while, this article will be a review and update of our PAC. For newer members, it should bring some clarity to the subject.

A "PAC" is a political [action] committee organized for the purpose of raising and spending money to elect and defeat candidates. Most PACs represent business, labor or ideological interests. PACs can give up to \$5,000 to a candidate committee per election (primary, general or special). They can also give up to \$15,000 annually to any national party committee, and \$5,000 annually to any other PAC. PACs may receive up to \$5,000 from any one individual, PAC or party committee per calendar year.

PACs have been around since 1944, when the Congress of Industrial Organizations (CIO) formed the first one to raise money for the re-election of President Franklin D. Roosevelt. The PAC's money came from voluntary contributions from union members rather than union treasuries, so it did not violate the Smith Connally Act of 1943, which forbade unions from contributing to federal candidates. Although commonly called PACs, federal election law refers to these accounts as "separate segregated funds" because money contributed to a PAC is kept in a bank account separate from the general corporate or union treasury.

In the Health Underwriter's Association, we have PACs for both National and California. HUPAC, our NAHU PAC's mission is to "raise funds from NAHU members for the purpose of supporting the political campaigns of candidates who believe in private sector solutions for the health and financial security of all Americans."

HUPAC has two funds. The candidate fund accepts individual contributions through personal credit cards or bank accounts. Funds from this account are given to political candidates, both challengers and incumbents, Democrats and Republicans. Only NAHU members, their spouses and staff can contribute to this fund.

The administrative fund accepts businesses and individual contributions. State and local chapters can also contribute. Money in this account goes to the operating costs of HUPAC so that the candidate fund can be reserved solely for political contributions. Unlike the candidate account, there are no contribution limits on the administrative account.

CAHU-PAC was established in 1992 as the political action committee associated with the California Association of Health Underwriters (CAHU). Its mission is to facilitate, with strategically targeted political contributions, the legislative and advocacy program of CAHU with a primary emphasis on supporting the role of the agent in the delivery of private health insurance. CAHU-PAC advocates on behalf of licensed insurance agents and their clients in California on numerous issues of vital concern including their role in solicitation of health, long-term care, annuity and life insurance products, insurance market reform, rising health care costs and regulations affecting agents and brokers.

The bottom line is that these organizations are working on behalf of Agents to secure our role in the future of healthcare financing. In the absence of NAHU and its associated PAC's, we have virtually no voice in the future of our business. There is nothing more crucial than political advocacy at this time. Our future literally depends upon this. Each and every one of us should make a commitment to support this cause to whatever extent our finances will permit. No amount is too small and no amount is too large. Use the following links to support your role in our industry.

<http://www.cahupac.org/contribute-now>

http://hahu.org/downloads/hupac_cf.pdf

##

Angels Night 2017– Supporting Our PAC!



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COIN COMPLIANCE CORNER

What Agents and Your Clients Need to Know!

September/October, 2017 Legal Briefing

From Marilyn Monahan, Monahan Law Offices

This is a summary of some recent developments of interest to consultants and employers:

Affordable Care Act

2017 IRS Forms 1094/1095 – Draft Versions: Draft Forms 1095-A, 1094-B, 1095-B, 1094-C, and 1095-C have been issued by the IRS, along with draft instructions for the 1095-A form. Very few changes have been made to the draft B and C series forms. However, employers should watch for the final forms and instructions.

2017 IRS Forms 1094/1095 - Filing & Distribution Deadlines:

Thus far, the IRS has not announced extensions for filing and distributing the 2017 1094/1095 forms. Employers should assume that the forms will have to be filed and distributed on time.

2017 IRS Forms 1094/1095 - Penalty Relief: Each year since completing these forms became mandatory, the IRS has issued guidance offering employers that file and distribute the forms on time penalty relief if the forms are completed incorrectly but the employer can show a good faith effort to comply. The IRS has not indicated that this relief will be available for the 2017 forms, and employers should not assume it will be offered. Employers should ensure that they are tracking data and completing the forms consistent with governing regulations and guidance or they could face penalties.

4980H and Individual Shared Responsibility Penalties: The IRS has recently reiterated that the ACA—notwithstanding the President’s Executive Order Minimizing the Economic Burden of the Patient Protection and Affordable Care Act Pending Repeal—remains the law of the land. In four information letters issued in April and June, the IRS explained that there is no existing waiver from the employer shared responsibility penalty, and an individual shared responsibility penalty will be owed by those who do not have qualifying coverage, unless they can show they are exempt from the requirement to have minimum essential coverage.

HIPAA Privacy & Security Updates—From Dorothy Cociu, COIN Editor and HIPAA Privacy & Security Consultant & Trainer



Because Marilyn Monahan addressed HIPAA specifics regarding business associates, which all agents are to their employer clients, I am not going to provide as detailed a HIPAA enforcement report as usual. I will, instead, provide details on one recent settlement, plus remind you of one I previously reported in the COIN regarding a recent settlement for failure to have an up-to-date (post 2013 final regs) BA Agreement, then discuss some recent educational information and tools released by HHS and OCR to assist covered entities and business associates.

In early September, I will be attending the annual NIST/HHS HIPAA Privacy & Security Conference for two days, to hear directly from the sources, recent case settlements and new information provided by the National Institute for Standards and Technology (NIST) and HHS/OCR. I'll report on valuable information received in the next issue of the COIN.

First, to compliment Marilyn Monahan's feature article, I wanted to remind you of a recent settlement (April 20, 2017) with The Center for Children's Digestive Health (CCDH), in which CCDH paid a \$31,000 fine to settle a HIPAA violation case, involving CCDH's business associate, FileFax, Inc., where records containing PHI were held, could not produce a signed Business Associate Agreement. This settlement also included a corrective action plan. **It should serve to remind us all that we need to be sure to have all client and other vendor BA Agreements up to date. Again, be sure they include the new provisions added in the final regs in 2013.** There was another case and vendor which there was a business associate agreement in place, but it had not been updated after HITECH, and therefore did not include the required language for breaches, etc., and a substantial penalty was given by OCR.

Both of these cases emphasize that you need signed BA agreements, and that they must be updated to include the final regulations language. **Keep in mind, as Marilyn mentioned in her feature article this issue, that the government model is only a starting point. It is not a contract.** You must have your contracts up to date, and be legitimate, legal and binding contracts. It is recommended that you seek the assistance of a qualified HIPAA Privacy & Security consultant or an

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South Orange County SB 562 Town Hall Meeting Report

By: Juan Lopez, OCAHU President

On July 27, 2017 OCAHU and the Laguna Niguel Chamber of Commerce hosted a community event on "Single Payer and SB562," with the goal of educating local business owners, city officials, OCAHU members and their clients. We had over 140 attendees come to learn both side of the Single Payer discussion. The distinguished panelist of four was moderated by the Mayor of Laguna Niguel, Jerry Slusiewicz. Our panelist were Alan Katz, taking the role of PRO Single Payer for educational and discussion purposes, Dr Jeffrey Barke, a Private Practice Family Physician in Newport Beach (against) and Juan Lopez representing OCAHU's perspective. Finally, our fourth panelist was California State Senator Patricia Bates, the Senate's Republican Leader, providing a legislator's insider perspective on SB562.

This was the second of two SB562 meetings (the first a highly successful event in Anaheim in June).

The program began with a Salute to our flag followed by our National Anthem, sung by our very own Maggie Stedt and Nolan Wariner. After some brief introductions by Mayor Slusiewicz, each panelist provided their POV's on signal payer. Alan Katz did a great job detailing what single payer is and isn't, and why there is a demand in California, and for that matter, the United States, for such

legislation. Senator Pat Bates spoke to the need of covering more citizens, but that a single payer system is too expense four our state, and spoke to the need of an expansion of private/public systems. Dr. Jeffery Barke was adamantly opposed to any government run system and explained why this shouldn't be an option at the State and Federal levels of government. Juan Lopez spoke to some recent tax and financial statistics in California that would make it almost impossible to support a single payer system, as well as needing to support and stabilize the individual markets across the US. There were discussions for solutions focused around creating new approaches and demanding more cost-transparency in the healthcare system to drive cost down.

There were a list of questions used by Mayor Slusiewicz for the discussion and later questions from the audience were entertained and answered. Closing remarks were heard by each participant, and Joe Partise spoke to the importance of PAC and while everyone should get involved in the political process.

##



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any of its duties to a third party. If that third party comes into contact with PHI or ePHI, the benefit consultant, as a HIPAA business associate, must enter into a written business associate/subcontractor agreement with that subcontractor or be in violation of the Rules. Penalties may be assessed for not having the required contracts in place, even if no breach of PHI occurs.

Some common business associate/subcontractor situations which are often overlooked occur when the business associate hires an outside IT consultant or uses a cloud storage service. If that IT consultant, in performing his or her duties, comes into contact with PHI, a written agreement is needed. If the cloud storage company is holding PHI, a written agreement is required.

Penalties

HIPAA is enforced by HHS. Penalties for violating the Rules are steep and are publicized.

The penalties may be imposed following a participant complaint or an audit. Audits may be random or triggered following a complaint. To avoid penalties, business associates should ensure they are compliant with the Rules long before the auditors arrive.

Violation Category	Each Violation	All violations of identical provision in a calendar year
Did not know	\$100-\$50,000	\$1.5 Million
Reasonable cause	\$1,000—\$50,000	\$1.5 Million
Willful Neglect—corrected	\$10,000-\$50,000	\$1.5 Million
Willful Neglect—not corrected	\$50,000	\$1.5 Million

Action Plan

- Appoint a Privacy and Security Officer
- Assess how PHI and ePHI is created and received
- Conduct an ePHI risk analysis
- Develop and implement safeguards
- Draft and implement policy and procedure manuals
- Prepare an incident and data breach response plan
- Execute necessary business associate and subcontractor agreements
- Train staff
- Re-assess periodically

Resources

HIPAA for Professionals, <https://www.hhs.gov/hipaa/for-professionals/index.html>

Security Rule Guidance Material, <https://www.hhs.gov/hipaa/for-professionals/security/guidance/index.html>

“Start with Security,” www.ftc.gov/startwithsecurity

Webinars: www.nahu.org

HIPAA Privacy, Security, and Breach Notification Audit Program: <http://www.hhs.gov/hipaa/for-professionals/compliance-enforcement/audit/>

Footnotes:

45 C.F.R. § 160.103.

45 C.F.R. § 164.502(a)(3).

45 C.F.R. § 164.502(e) and 164.308(b).

45 C.F.R. § 164.504(e) and 164.314(a).

45 C.F.R. § 164.530(c).

45 C.F.R. § 164.306.

45 C.F.R. § 164.308.

See, e.g., National Association of Insurance Commissioners (NAIC), *Cybersecurity*. http://www.naic.org/cipr_topics/topic_cyber_risk.htm

45 C.F.R. § 164.404, 164.406, and 164.408.

45 C.F.R. § 164.402.

45 C.F.R. § 164.410.

45 C.F.R. § 160.103.

45 C.F.R. § 164.308(b) and 164.502(e).

45 C.F.R. § 164.314(a)(2)(iii) and 164.504(e)(5).

##

Editor’s Note: Marilyn Monahan can be reached at Monahan Law Offices, (310) 301-3300 / (310) 989-0993.

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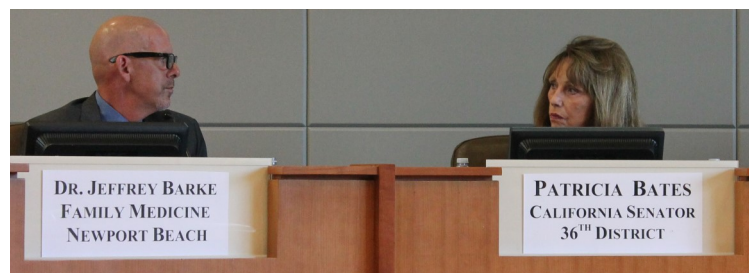
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Event Photos—South Orange County SB-562 Town Hall Meeting





September 19, 2017

7:30 AM to 4:15 PM

How to GROW Your Business

OCAHU's Annual CE Day Can't be Missed!

You'll walk away with 7 CE's and TONS of useful information to grow your business in these complicated times.

Sponsorship Opportunities Available!

Radisson Hotel | 4545 MacArthur Boulevard | Newport Beach CA 92660

Registration Fees: Member & First Time Guest: \$50 | Non-Member: \$75

Register online at ocahu.org

AGENDA

7:30 to 8 AM

Registration, Continental Breakfast and Visit with Sponsors

8 to 8:55 AM

Medicare for the Individual Health Insurance Producer

• Course 271989 | 1-HR CE

9 to 9:55 AM

Voluntary Benefits

• Course 240147 | 1-HR CE

10 to 10:55 AM

Cyber Security 1.0 - Protect Your Customer

• Course 357931 | 1-HR CE

11 AM to 11:55 AM

Legislative Update ACA | AHCA

• Course 348272 | 1-HR CE

12 to 1:15 PM

Visit with Sponsors, OCAHU Business, Charity Check Presentations and Lunch

1:15 to 2:10 PM

How to Navigate the Insurance Market

• Course 355351 | 1-HR CE

2:15 to 3:10 PM

Workers Comp

• Course 319190 | 1-HR CE

3:15 to 4:10 PM

Alternative Benefit Strategies

• Course 354931 | 1-HR CE



OCAHU

Orange County Association
of Health Underwriters

Ph: (866) 921-6440, Ext. 3 | ocahu.org

orangecountyahu@yahoo.com

California

Employers trying to keep track of the newest laws, regulations, and guidance have been busy this summer. This report provides an overview of some of the newest developments from the Labor Commissioner and the California Fair Employment and Housing Council (FEHC):

Labor Commissioner: New Notice Regarding Domestic Violence Protections: Last year, the legislature passed A.B. 2337 (Chapter 355), which requires employers with 25 or more employees to provide a notice explaining that employees who are victims of domestic violence are entitled to certain legal protections. The notice must be provided to new employees upon hire and to other employees upon request. The requirement took effect **July 1, 2017**. (Cal. Lab. Code § 230.1.) A copy of the notice drafted by the Labor Commissioner may be found here: https://www.dir.ca.gov/dlse/Victims_of_Domestic_Violence_Leave_Notice.pdf

FEHC: Consideration of Criminal History in Employment Decisions: New FEHC regulations took effect **July 1, 2017**, prohibiting employers from using criminal records when making employment decisions such as hiring, promotion, training, discipline, lay-off, and termination, unless an exception applies. If an adverse action is taken based on a criminal background check, notice may have to be provided in advance. (Title 2, § 11017.1 of the Cal. Admin. Code.)

FEHC: Regulations Regarding Transgender Identity and Expression: Another new set of FEHC regulations took effect **July 1, 2017**. These regulations prohibit gender identity and gender expression discrimination in the workplace. The regulations “address key topics such as the rights of employees to use restrooms, locker rooms, and other similar facilities corresponding to their gender identity; to dress in accord with their gender identity and expression; and to be addressed by their preferred name and gender pronoun. They also provide additional clarity regarding the circumstances under which employers are permitted to collect information about employees’ genders, and/or use such information.” (Title 2, § 11030-11034 of the Cal. Admin. Code.)

FEHC: Emergency Regulations Regarding Gender-Neutral Facility Signage: In 2016, the legislature passed A.B. 1732 (Chapter 818), relating to single-user restrooms. To implement the law, on **July 1, 2017**, FEHC regulations went into effect requiring that “[e]mployers and other covered entities with single-occupancy facilities under their control shall use

gender-neutral signage for those facilities such as ‘Restroom,’ ‘Unisex,’ ‘Gender Neutral,’ ‘All Gender Restroom,’ etc.” It was then discovered, however, that these FEHC regulations conflict with existing Cal/OSHA regulations, leaving employers with the option of violating one set of rules or the other. In August, emergency regulations were issued by FEHC to conform the two sets of regulations.

FEHC: Proposed Regulations Regarding National Origin Discrimination: On July 17, 2017, a hearing was held on the FEHC’s proposed regulations relating to national origin discrimination. As it relates to employment, the Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.) prohibits harassment and discrimination because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, and military and/or veteran status of any person. According to the notice of proposed rulemaking, the regulations are necessary in order to, in part, “clarify what actions by employers may encompass national origin discrimination and therefore flesh out an otherwise opaque term.”

Municipalities: San Francisco

San Francisco: San Francisco often takes the lead on issues involving the workplace, so it is useful to keep an eye on what is going on up north:

Minimum Wage Ordinance (MWO): The minimum wage increases to \$14 on **July 1, 2017**. **Health Care Security Ordinance (HCSO):** New proposed revisions to the HCSO rules are available for comment; the comment period ends September 7th. **Paid Parental Leave Ordinance (PPLO):** Compliance will ex-

Legal Brief Continued on Page 20

HIPAA Privacy & Security Updates, Continued from Page 8

attorney to be sure your contracts are valid and provide both Federal and California provisions.

In a recent settlement, careless handling of HIV information jeopardized a patient’s privacy and resulted in a settlement fine of \$387,200. St. Luke’s-Roosevelt Hospital Center (St. Luke’s), paid the US Department of Health & Human Services (HHS) to settle potential violations of the HIPAA Privacy Rule and agreed to implement a comprehensive corrective action plan. St. Luke’s provides comprehensive services to persons living with HIV or AIDS and other chronic diseases.



Membership News

New Members and Renewals!



Pending Renewals as of 7-1-17

*OCAHU is proud to announce
the list of new members since
July 1st!*

WELCOME NEW MEMBERS!!!!

James Douglas

Dena Allchin
George Balteria
Bruce Canetti
Mavis Chan
Kaili Chang
Tom Christian
Catherine Clegg
Ululani Cook
Danilo Diaz
Rebecca Dolan
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David Hagen
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Allan Ly
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Andrea McLoy
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David Milligan
Lisa Montedore
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Allen Patrick
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Dawn Quinn
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Gabrielle Ruelas
Jay Semaan
Melissa Shaw

*Please renew your
membership soon!*

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Kenda Taylor
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Louise Valencia
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2017-18 Board of Directors

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If you're enjoying reading this issue and want to become a member, contact OCAHU!



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Event Photos—PAC Angels Baseball Event July 21, 2017



Friends, co-workers, industry networking, and Angels Baseball! What's better than that?



es. It is one of 7 hospitals that comprise the Mount Sinai Health System.

The investigation revealed that staff had impermissibly faxed the patient's PHI to his employer rather than to the requested personal post office box.

New Training and Education Tools

HHS and OCR launched a new training video module for health care providers on patients' right of access under HIPAA, which provides an in-depth review of the components of the HIPAA right of access and ways in which it enables individuals to be involved in their own care. The module provides helpful suggestions about how health care providers can integrate aspects of the HIPAA access right into medical practice. Participants will receive free Continuing Medical Education (CME) credit for physicians and Continuing Education credit (CE) for health care professionals.

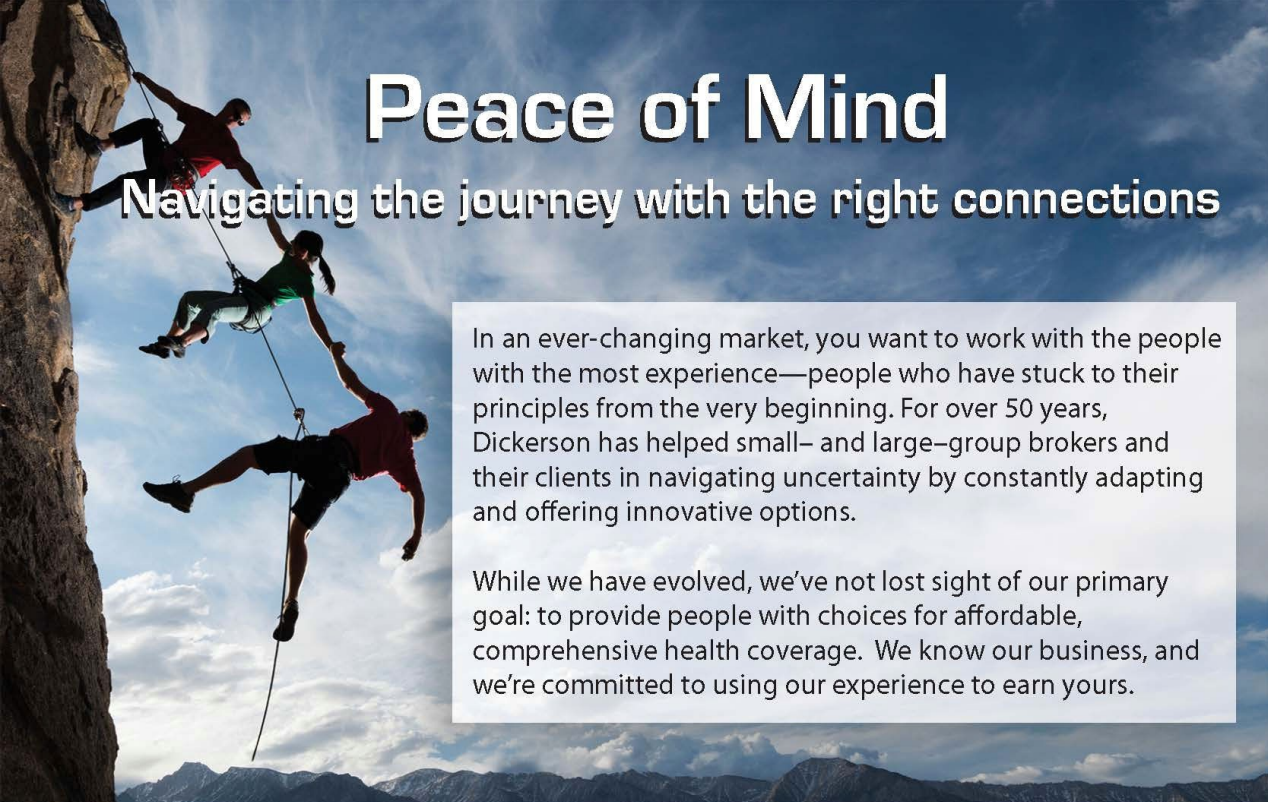
The module is available at Medscape at: <http://www.medscape.org/viewarticle/876110> or via OCR's Train-

ing and Resources webpage at <https://hhs.gov/hipaa/for-professionals/training/index.html>.

HHS also unveiled a web tool this summer to highlight recent breaches of health information. This revised web tool puts important information into the hands of individuals, empowering them to better identify recent breaches of health information and to learn how all breaches of health information are investigated and successfully resolved. The HIPAA Breach Reporting Tool (HBRT) features improved navigation for both those looking for information on breaches and ease-of-use for organizations reporting incidents. The tool also helps educate industry on the types of breaches that are occurring, industry-wide or within particular sectors, and how breaches are commonly resolved following investigations launched by OCR, which can help industry improve the security posture of their organizations.

The HBRT can be found at: <https://ocrportal.hhs.gov/ocr/breach-report.jsf>. For additional information on HIPAA breach notification, visit: <http://www.hhs.gov/hipaa/for-professionals/breach-notification>.

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Hold the Date!

October 10th, 2017:

**ACA Helping Clients Navigate
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**(1-hour CE: Course
Number 356592),**

**Speaker: Barbara Lewman,
Word & Brown**

11 AM to 1 PM,

**Radisson Hotel Newport Beach
4545 MacArthur Blvd, Newport Beach, CA**



*Maggie Stedt, Immediate
Past President of OCAHU, at
the 2017 Medicare Summit
at Pala Casino and Resort*

**Be sure to read the
complete Summit
event coverage on
page 21!**

Angels Night—More Fun!



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Legal Update, continued from page 14

tend to employers with **35 or more employees** beginning on **July 1, 2017**, and to employers with **20 or more employees** beginning on **January 1, 2018**.

Lactation in the Workplace Ordinance: Mayor Ed Lee signed this ordinance on June 30th, and it goes into effect **January 1, 2018**. **Parity in Pay Ordinance:**

San Francisco Mayor Ed Lee also signed the Parity in Pay Ordinance, which will take effect July 1, 2018. This ordinance, among other requirements, prohibits employers from considering, asking about, or relying on an applicant's salary history in determining whether to offer the applicant a job or setting the person's salary. Employers also may not disclose salary history of a current or former employee, unless required by law, it is publicly available, or it is subject to a collective bargaining agreement.

Information on compliance, including regulations, deadlines, FAQs, PowerPoints, notices, forms, and other materials is available at <http://sfgov.org/olse/>. ##



Senior Summit 2017!

By: Ryan Dorigan and Maggie Stedt



On August 28th and 29th the Orange County Association of Health Underwriters, in collaboration with the Inland Empire, San Diego and Desert Cities chapters, hosted the 4th Annual Medicare Summit at Pala Casino. What began a few years ago as a small meeting to connect all the different folks who work in the Medicare market has quickly taken

off and it has become one of the largest, most well attended meetings in our calendar.

This year's event featured over 60 sponsors and exhibitors and well over 600 attendees. This year's event was completely sold out, and in fact many folks had to add their names to the waiting list. If you are planning to join us next year, please remember that this event is extremely popular, so please plan ahead and purchase your tickets well in advance.

We had attendees from all over the State of California, as well as folks who joined us from as far away as Arizona, Oregon, Nevada, Texas and even Florida. The folks who traveled so far were not disappointed, as we had a jam packed schedule and a wonderful venue.

Attendees started arriving as early as Sunday Night, and by early Monday morning Medicare had taken over the entire resort. Monday offered brokers an early preview of the plan benefits for 2018 from Care 1st, Humana, Aetna, and Anthem. The Social Security Administration hosted a session and answered broker questions, and some of the top General Agencies took the time to explain the value of working with a marketing organization.

On Monday night we all enjoyed a festive Luau hosted by Humana. Everyone was dressed in their Hawaiian shirts and there was a roasted pig and entertainment from the stage. Everyone had such a great time reconnecting and tasting all of the delicious food. After the Luau, the party continued into the Casino, *but what happened at Pala that night stays at Pala*, so don't miss next years event!!!

Tuesday was the main day of the Summit and it was another busy day. The exhibit hall opened at 8am and this gave attendees the chance to meet with vendors and talk to exhibitors.

The main session began at 9am with a legislative update from Mike Embry, the current NAHU president. This was immediately followed by a legislative panel hosted by Julie Broyles, our legislative advocate with the State of California, as well as John Greene, the NAHU VP of Congressional Affairs. They were joined by Nicholas Uehleke, a staff member with the House Ways and Means Committee. This was a fascinating discussion and really helped to clarify the future landscape of Healthcare in this country.

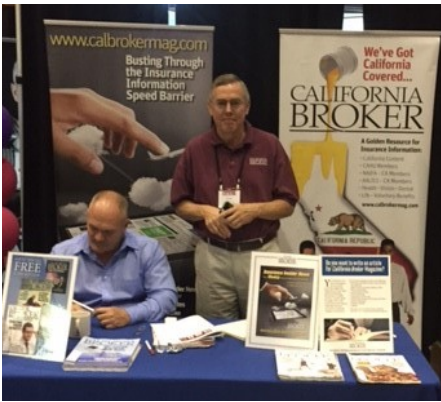
At this point all the attendees had the chance to choose from 6 different break-out sessions. The sessions were divided into courses designed for beginners and courses for more advanced agents, so there was truly something for everyone. The courses ranged in topics from developing referrals and understanding capitation to current market trends and selling LTCI benefits.

The exhibit hall was closed during lunch, so this allowed everyone to attend the Keynote presentation. The title of the presentation was "2018 NAHU Insight on Medicare." The session was hosted by Bob Tretter, a former President of NAHU and current VP of Marketing and Recruitment for the entire organization. Bob was joined by Dwayne McFerrin, the current chairman of the NAHU Medicare Advisory Board, and Tom Kornfield, the VP of Public Programs Policy and Federal Programs for American Health Insurance Plans, or AHIP.

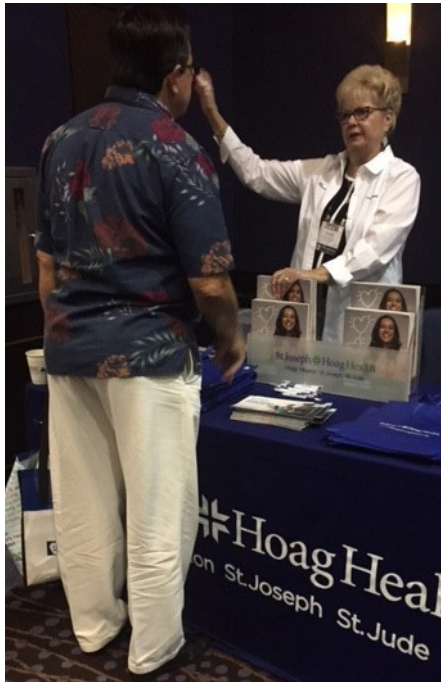
The exhibit hall was re-opened, and then it was on to the afternoon breakout sessions. This time attendees had their choice of 5 more classes, ranging from Social Security 101 to current trends in the Supplement market, and best practices for advanced brokers. Following the second round of breakout sessions, there was a Medicare Supplement panel, raffle prizes and closing remarks.

It was an unforgettable couple of days in the desert, and it's an idea that was started right here in Orange County... and is quickly spreading around the Country. This year 14 different chapters hosted a Medicare Summit based on the original idea created here in Orange County. We should be very proud of our organization and three tremendous leaders from each of the different chapters who put this amazing event together. If you didn't get the chance to join us this year, then please put it on your calendar and plan to see us at the 5th Annual Medicare Summit next year!!! ##

Editor's Note: See Photos on the Senior Summit throughout this issue of the COIN!



The Senior Summit took place on August 28 and 29, 2017 at Pala Casino and Resort. A record number of attendees took part in this timely event. For a complete report on Senior Summit 2017, see page 21!



Above: Medicare Summit 2017; Below, Angels Night to Support our PAC!





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- THE C.O.I.N. -

Please join us at our events!

SCHEDULE OF EVENTS

September 19th, 2017: CE Day, 7 CEUs, 7:30 AM to 4 PM , Radisson Hotel Newport Beach

October 10th, 2017: ACA Helping Clients Navigate Compliance (1-hour CE: 356592), 11 AM to 1 PM, Radisson Hotel Newport Beach

November 14th, 2017, OCAHU goes dark for in-person meeting, but webinar will be available (TBD)

December 12th, 2017: Holiday Luncheon and Program, 11 AM to 1 PM, Radisson Hotel Newport Beach