

Orange  
County Association of  
Health  
Underwriters

Volume 13, Issue 4  
January/February 2019



**COI**

COUNTY OF ORANGE INSURANCE NEWS



**OCAHU Presents Consumer Education Day, 2019**

**Members: Bring Your Employer Clients for this Special Event!**

**January 8, 2019**

**Legal Update: Preparing for 2019**

**Marilyn Monahan, Monahan Law Office**

*And see related Feature Article on page 5!*

**The Tides Are Turning... A Look at The Post-Election California**

**The Impact of the Blue Wave—Single Payer Update**

*See Inside for Details!*

### Inside this Edition:

- Feature Article: Legal Update: What's New for 2019
- Compliance Corner—*Legal Briefing; "Privacy & Security Updates and Enforcement*
- *Department of Insurance Notice—Short Term Health Policies*
- *CAHU Notice—Special Election Period for Victims of Wildfires*
- Single Payer Update - Post Election Edition
- Legislative Update
- December Holiday Meeting & Post-Election Legislative Update
- Membership News; New Members and Renewals
- Schedule of Events

**Happy  
New  
Year**

*From Everyone at OCAHU!*

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**Consumer Education Day**

**Featuring**

**Marilyn Monahan,**

**Legal Update; Preparing**

**For 2019**

*January 8, 2019*

*(See ad page 8 - BRING YOUR CLIENTS!)*

**OCAHU BDS**

*Friday, February 8, 2019*

*( see ad page 24)*

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\* Kaiser Permanente International, <http://xnet.kp.org/kpinternational/participants.html>, accessed November 25, 2014.

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## Table of Contents

Thank you for being a part of OCAHU!

<i>What's Inside</i>	<i>Page Number</i>
President's Message	4
December Meeting Photos	4
Feature Article— Legal Update: What's New for 2019?	5
Legislative Update	6
More December Meeting Photos	6
Consumer Education Day—March Meeting Event Information (Bring Your Clients!)	8
Business Development Summit (BDS) Agenda	8
Department of Insurance Notice— Prohibition Regarding Short-Term Limited Duration Health Insurance Policies	9
March Meeting Information	9
Single Payer Update—Post Election News	10
OCAHU Sponsors—Special Thank Yous	11
COIN Compliance Corner—Legal Brief, HIPAA Privacy & Security Updates	12
Notice to Members—NAHU Post-Election Update Recording Available	14
Membership News	19
OCAHU Board of Directors & Staff Contact List	20
More Event Photos	21
Golf Tournament Event Information & More Event Photos	22
PAC Fundraiser Hold the Date—Happy Hour Sports Trifecta!	22
OCAHU Business Development Summit	24
CAHU Notice—Special Election Period for Victims of Wildfires	
OCAHU Platinum Sponsors	28
Schedule of Events	28

**REGISTER NOW!**

# OCAHU BUSINESS DEVELOPMENT SUMMIT 2019

*A Perfect Storm....*

*Health & Welfare*

*Financial Wellness*

**Friday, February 8, 2019**

**Hyatt Regency, Newport Beach**

*See Ad Page 24 for Details!!!*



**Making a Difference in People's Lives.**

**One Member at a Time.**

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, Ryan Dorigan

Happy New Year to the Orange County Association of Health Underwriters!!

Wow, time is really starting to fly. I can't believe that I am already almost half way through my term as President. It has been a great pleasure to represent you and I am looking forward to seeing each of you at all of our exciting events coming up.

I hope by now you have all started to recover from 4<sup>th</sup> quarter. I know what a hectic time of year it is for everyone, so I understand if this COIN is the first contact you have been able to have with OCAHU for the last few months.

We have been hard at work on your behalf!

It was a pleasure to see so many of you over at Kaiser back in November for our post-election meeting. I hope that many of you were able to join us online for the webinar and that you found all of the information from Janet Trautwein to be as valuable as I did. As you can see there were some surprises and there are some new faces both here in California and back in Washington D.C.

Well, we don't see any reason to let those folks get all settled in before we head out and introduce ourselves. So next month members of this organization will be heading out to Washington D.C. for our annual Capitol Conference. We will be meeting with legislators and discussing the concerns and impacts of healthcare legislation on you and your clients. This is an incredible trip and if you would like to join us next year then please reach out to a board member at your next monthly meeting.

February is going to be a very busy month as we are also hosting our Broker Development Summit. Our President Elect MaryAnn Trutanich has done an incredible job putting together this full-day sales expo, and this year looks to be our biggest event ever. We have a full day of guest speakers and break-out sessions all designed to help business professionals stay on top of market trends and ahead of their competition.

Our charity golf tournament will be coming up on April 15<sup>th</sup>. Please join us at Alta Vista Country club for a full day of fun and fund-raising for a wonderful cause. We will have the salon truck at the course offering Medi/Pedi and there will be a delicious dinner and raffle following the tournament, so there is something for everyone including the non-golfers.

Our Women in Business event will be coming up on June 7<sup>th</sup>. We are hosting it at the Balboa Bay Club for the second straight year, and this is truly one of the most beautiful venues anywhere in California. The view is spectacular and the planning team always does an incredible job with the fashion show and the charity auction. It's a very fun event, so please plan to join us this year.

As always we are looking for future leaders in this industry. If you attend one of our events and would like to help plan our next golf tournament or our next Women in Business event, then please let me know. If you have a passion for legislation or you just want to be able to make a difference, then join us in Washington D.C. or join us in Sacramento. This is a critical time in our industry and we all need to rally together. ##

### December Holiday Luncheon & Election Legislative Update Meeting Photos, December, 2018



Members Chris White and Jim Douglas are in the holiday spirit!



Top: OCAHU board members Juan Lopez, Maggie Stedt, Pat Stiffer & Barbara Salvi. Right: OCAHU members networking and having fun before the panel presentation.





**Feature Article:**

**Legal Update: What's New for 2019?**

**By: Marilyn Monahan, Esq, Monahan Law Office**

From D.C. to Sacramento, regulators and legislators were busy in 2018. As a result, employers and producers have a lot of new laws and regulations

**Editor's Note:**

***This article is a supplement to Marilyn's Consumer Ed Day CE presentation on January 8, 2019! You will see how much your clients can learn after reading this feature article! Register you and your clients now at OCAHU.org!***

to understand, and will have to supplement their 2019 "to do" lists to ensure they are compliant with all the new mandates.

With regard to the Affordable Care Act (ACA), the biggest changes come from the federal departments administering the law (the Departments of Labor (DOL), Health and Human Services (HHS), and Treasury). We have a number of new rules in place, as well as some proposed regulations making their way through the system which we need to keep our eye on. The highlights are summarized below.

As for the State of California, over the course of the last year our legislators have taken an active interest in the health insurance marketplace. Legislators have taken an even greater interest in the workplace. Therefore, we have a number of very interesting new laws to report on below. As a reminder, bills passed by the California legislature and signed by the governor in 2018 take effect January 1, 2019, unless by their terms they have an earlier or later effective date.

**FEDERAL HIGHLIGHTS**

**New Laws and Regulations**

**Individual Shared Responsibility Penalty: Tax Cuts and Jobs Act (H.R. 1; Public Law No. 115-97):** The Tax Cuts and Jobs Act, signed on December 22, 2017, reduced the individual shared responsibility penalty to zero, effective December 31, 2018. Essentially eliminating the individual shared responsibility penalty could also impact employers offering group health plans if employees no longer feel the need to enroll in the coverage.

**Cadillac Tax: Funding Bill (H.R. 195; Public Law No. 115-120):** The funding bill signed on January 22, 2018, amended the ACA to delay until 2022 the implementation of the excise tax on high cost employer-sponsored health coverage. Implementing regulations have not yet been issued.

**Exemptions and Accommodations for Coverage of Certain Preventive Services under the ACA; Final Rule:** On November 15, 2018, the Departments issued two final rules creating exemp-

tions from the ACA's contraceptive coverage mandate. (83 Fed. Reg. 57536 & 57592.) Under the ACA, health plans must cover preventive care without cost-sharing, and certain contraceptive services are included within that mandate. These rules exempt employers with either a sincerely held religious belief or a sincerely held moral conviction (but not religious belief) from the coverage mandate.

**Association Plans: Final Rule:** On June 19, 2018, the DOL issued a final rule that provides a framework for the sale of association health plans (AHPs). (83 Fed. Reg. 28912 (June 21, 2018).) The final rule accomplishes this by creating a new regulation that defines "employer," for purposes of ERISA, to include a group or association of employers that meet specified criteria based on common geography or industry. If an AHP satisfies the criteria, it can make coverage available to employers of all sizes, including small employers and certain self-employed individuals.

Importantly, AHPs are also subject to state law, and state law may restrict the creation and sale of these plans. In California, for example, under existing law, fully insured AHPs will be subject to state mandated benefit laws. In addition, before a group health insurance policy can be issued to an association, the association must satisfy certain criteria established by California law. Finally, and of considerable importance, is the fact that California law prohibits the creation of new self-funded "multiple employer welfare arrangements" (MEWAs), and an AHP is a MEWA.

In response to this new federal rule, California passed **S.B. 1375** (Chapter 700). S.B. 1375 provides that small group and

*Continued on Page 7*



## Legislative Update

Rob Semrow, OCAHU V.P. Legislation

Hello OCAHU members and friends...

Let's start with some reflection. The 2018 legislative session was an interesting one.

It started with a lot of bluster and hundreds of potential bills that could impact a wide variety of areas in the insurance industry from health insurance to ancillary and beyond.

That proposed legislation, like most, was filled with a multitude of proposals and bills that would have had far reaching impacts on our industry and our customers. CAHU and OCAHU worked tirelessly on those bills and assigned some top priority bills some extra attention. Those efforts paid off with numerous changes to language and the scope of some of the bills.

Now as we look forward to 2019, what can we expect? We have a new governor, a new insurance commission and an engaged and fired up coalition of groups that are gearing up to make some far-reaching pushes towards single payer, Medicare for all and a variety of other proposals, which would expand coverages at a tremendous cost to the state and its tax payers. I continue to be asked about SB562 and if that is finally off the table. Unfortunately, it is not. It lost steam and momentum for obvious and important reasons in 2018, but the new Governor, Gavin Newsom, has stated that he sees it the same ways those pushing for these proposals do - that they are energized and carrying "a people's mandate"...

In 2019, there are already rumblings and issues that we can expect to see in 2019 as well. Probabilities include individual mandate legislation, OTC drug payments counting toward Deductibles and Out-of-Pocket maximums, notifications galore and more niche and specialized mandates. This doesn't include the aforementioned push for single payer options.

On the Federal side, Nancy Pelosi and the democrats are emboldened to switch from defense to offense on health care issues and have already stated that one of their targets will be prescription drugs, cost controls and other key pain point issues with ACA. They will likely push harder and further in scope and reach as they try to set this up as a key issue for the 2020 elections.

As always, check in with the OCAHU, CAHU and NAHU websites for the latest updates and information, and when you are making your new years' resolutions for 2019 - please add in "Make at least one call this year to each of my legislators and let them know that my industry is important, does good and serves many in way

*that no other system or bureaucracy could."*

If you haven't reviewed the 2018 new laws that passed visit the CAHU website or revisit the last issue of the OCAHU coin for bill information, especially when it comes to the sale of Short Term Plans....errr, no longer being able to sell short term plans.. And be sure to attend the January 8th OCAHU meeting with Marilyn Monahan for a full review.

If you are wondering what you can do to help save your industry and your healthcare, we need you to get involved. Each year, you need to make a phone call, make a visit and send an email to your legislators. AND if you work in a large agency, you need to get your colleagues engaged as well. Have them send an email, place a phone call and join our efforts to secure our important place of service that we provide for consumers.

Always, remind your clients that as a member of OCAHU, you are a part of a group of dedicated industry professionals who are working with legislators and other advocates to create responsible and responsive change that have positive impacts and as important, positive outcomes.

Buckle up and best of luck in these challenging times my friends!

Robert Semrow, CP - 949-413-6566 ##

### December, 2018 Holiday Event & Election Update Legislative Panel Photos



**New Laws: Insurance Regulation**

guaranteed association plans cannot be sold to sole proprietors, partners of a partnership, and the spouses of sole proprietors and partners, unless they have other employees.

**Short-Term, Limited-Duration Insurance: Final Rule:** The federal government also issued a final rule on the sale of short-term, limited-duration insurance policies (83 Fed. Reg. 38212 (Aug. 3, 2018)). The new rule applies to policies sold on or after October 2, 2018. Under the new rule, short-term, limited-duration plans may be sold so long as they expire less than 12 months after their original effective date (rather than the “less than 3 months” period currently in effect) and, with renewals or extensions, have a duration of no longer than 36 months in total.

These short-term policies are also subject to applicable state law requirements. In response to the federal rule, California passed **S.B. 910** (Chapter 687). Notwithstanding any change in governing federal regulations, this bill, commencing January 1, 2019, would prohibit a health insurer from issuing, selling, renewing, or offering a short-term limited duration health insurance policy for health care coverage in this state. “Short-term limited duration health insurance” is defined to mean “health insurance coverage provided pursuant to a health insurance policy that has an expiration date specified in the policy that is less than 12 months after the original effective date of the coverage.”

**Pending Regulations**

**Electronic Filing with the IRS: Proposed Rule:** The IRS issued a proposed rule that will, if adopted, require more employers to file certain forms electronically with the IRS—such as W-2s, 1099s, and 1095-Cs. Under existing rules, if an employer files 250 or more of these forms, the forms must be filed electronically—but the 250 threshold is determined for each type of form separately. The new rule would retain the 250 threshold, but would require the employer to take all the forms it files into account to determine whether it meets the 250 threshold. Failure to file forms electronically, when required, could result in penalties. Public comments on the proposed rule were due by July 30, 2018. (83 Fed. Reg. 24948 (May 31, 2018).)

**Health Reimbursement Arrangements and Other Account-Based Group Health Plans: Proposed Rule:** On October 29, 2018, a proposed rule was issued which would expand the use of HRAs. As part of this proposed rule, HRAs could be used to reimburse the cost of individual policies, and employers could offer an “excepted benefit” HRA.

**Mandated Benefits:** Each year, a number of mandated benefit bills are introduced in the legislature. These bills require health insurers and HMOs to provide coverage for specified conditions, treatments, devices, or medication. The mandates do not apply to self-funded plans. The following bills were signed into law:

**S.B. 1034 - Health Care: Mammograms (Chapter 332):** This bill extends, until January 1, 2025, a requirement that a health facility at which a mammography examination is performed must include a prescribed notice on breast density in the summary of the written report that is sent to a patient, if certain circumstances apply.

**A.B. 2193 - Maternal Mental Health (Chapter 755):** There are two parts to this bill. First, the bill requires, by July 1, 2019, a health care practitioner who provides prenatal or postpartum care to offer to screen or screen a mother for maternal mental health conditions. Second, the bill requires insurers/HMOs, by July 1, 2019, to develop a maternal mental health program, to be provided to practitioners upon request.

**A.B. 1860 - Health Care Coverage: Cancer Treatment (Chapter 427):** Existing law prohibits, until January 1, 2019, an individual or group health policy or HMO contract from requiring an insured to pay a total copayment/coinsurance amount that exceeds \$200 for an individual prescription of up to a 30-day supply of a prescribed orally administered anticancer medication. Existing law also allows HMOs to adjust that \$200 limit on January 1 of each year. A.B. 1860 extends the prohibition until January 1, 2024; increases the total allowed amount of the copayment/coinsurance to \$250; and removes the authorization for an HMO to adjust that limit.

**Prescription Drugs:**

**A.B. 315 – Pharmacy Benefit Management (Chapter 905):** There are two parts to this bill. First, as of 1/1/20, it requires a pharmacy to inform a customer at the point of sale for a covered prescription drug whether the retail price is lower than the applicable cost-sharing amount for the prescription drug. Second, as of January 1, 2020, it prohibits HMOs from included in their contracts with PBMs or pharmacies a limitation on such disclosures.

*Continued on Page 13*

Register at [ocahu.org](http://ocahu.org)



## CONSUMER EDUCATION DAY

### Legal Update: Preparing for 2019

**Monthly Luncheon | January 8th**

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**SPEAKER**

**Marilyn A. Monahan  
Owner  
Monahan Law Office**



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### SCHEDULE OF EVENTS

Friday, February 8, 2019, Hyatt Regency John Wayne Airport, Newport Beach

7:30 am - 8:30 am	<b>Exhibit Hall &amp; Continental Breakfast</b>	
8:30 am - 8:45 am	Welcome and Opening Remarks	
9:00 am - 9:50 am	<b>The Future of Single Payer</b> (CE #368091)	Janet Trautwein, CEO, NAHU
10:00 am - 10:50 am	<b>Breakout Session</b> (Choose One)	
	<ul style="list-style-type: none"><li>• <b>Options of Single Payer Healthcare System in CA</b> (CE #363714)</li><li>• <b>Marketing Your Brand to Stand Out from the Crowd</b> (CE #337592)</li><li>• <b>Self-Funding the Health Insurance Market 2019 &amp; Beyond</b> (CE # Pending)</li></ul>	Neil Crosby, Warner Pacific Joe Navarro, Warner Pacific Dorothy Cociu, Advanced Benefit Consulting
11:00 am - 11:55 am	<b>Exhibit Hall</b>	
12:00 pm - 1:00 pm	<b>Lunch &amp; Lunch Program</b> (Exhibit Hall Closed)	
12:15 pm - 12:45pm	<b>Pinnacle Award</b>	
1:00pm - 2:00 pm	<b>Keynote Presentation - Financial Wellness A New Class of Employee Benefits and Why It Matters</b> CE#372431	Denise Winston, CEO Founder, Money Starts Here, LLC
2:15 pm - 3:15 pm	<b>Speaker Presentation - Camille Dixon, Director Statewide Program Manager &amp; Cannabis Insurance External Affairs, California Department of Insurance</b>	
3:30 pm	Closing of Main Event. Thanks for attending!	
3:45pm - 4:45 pm	<b>HAPPY HOUR in the Exhibit Hall &amp; Raffle Giveaway</b> (must be present to win) In the Exhibit Hall	

*From the Office of Dave Jones,  
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censing (800) 967-9331*

**NOTICE—December 10, 2018**

**Prohibition Regarding Short-Term Limited Duration Health Insurance Policies**

This notice alerts insurance companies and agents that, effective January 1, 2019, short-term limited duration health insurance cannot be issued, amended, sold, renewed, or offered in California. Short-term limited duration health insurance is health insurance coverage provided pursuant to a health insurance policy that has an expiration date specified in the policy that is less than 12 months after the original effective date of coverage.

This prohibition is the result of the enactment of Senate Bill 910 (Stats. 2018, ch. 687), which added Insurance Code section 10123.61 to define and prohibit short-term limited duration health insurance policies.<sup>1</sup>

Questions regarding compliance with the requirements of Senate Bill 910 should be directed to [Bruce.Hinze@insurance.ca.gov](mailto:Bruce.Hinze@insurance.ca.gov).

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Be sure to allow for extended time for the 3 hour CE presentation!



## Single Payer Update—Post Election Edition

By: Dorothy Cociu, RHU, REBC, GBA, RPA,  
OCAHU V.P Communications and Public Affairs

The post-election concern about Single Payer legislation in California is very much warranted... because

as many at CAHU have stated recently, we now are experiencing the “perfect storm” in Sacramento for Single Payer. We have of course a newly elected Governor and Insurance Commissioner, plus Democratic majorities in both houses, so many are concerned that it’s the perfect beginning to what the Democratic party has been wanting for some time... Single Payer healthcare.

The Blue Wave may have started slowly, but grew increasingly strong and hit California hard in November. Democrats of course, as we all know, swept the statewide elected offices once again. But will this have much impact on us? What should we most be concerned about at this point? To help answer these questions, or at least ponder them, I asked a few OCAHU and CAHU leaders for their comments.

“The California Blue Wave was really just a blue wave in Orange County and a small part of Fresno,” stated Brad Davis, CAHU V.P. Public Affairs. “For the rest of the state, there weren’t any surprises—it felt more like a shift in the tide.”

We here in Orange County are familiar with the election swings, and as Brad Davis stated, the Blue Wave hit Orange County hard, as we lost prominent Republican Orange County Congressional incumbents (Mimi Walters lost to Katie Porter and Dana Rohrabacher lost to Harley Rouda), plus the loss of Republican candidate Young Kim to Democrat Gil Cisneros in Dist. 39, Ed Royce’s long-held seat, and Darell Issa’s retirement, which resulted in the win for Dem. Mike Levin. All this resulted in Orange County, a previous strong-hold for conservative republicans in the past, now has **for the first time since the 1930s, not a single Republican in Congress.**

On the state side, the State Assembly now has (as of Nov. 6, 2018) 55 Democrats and 25 Republicans, moving to 60 Democrats and 19 Republicans in 2019-2020, and the State Senate moves from 26 Democrats and 14 Republicans to 29 Democrats and 11 Republicans in 2019-2020.

“The industry should be aware that the flood gates have opened,” stated Rob Semrow, OCAHU V.P. Legislation. “I think that we will see a large number of revisited as well as new ideas and initiatives be brought forward. The super majority will have the ability to move ideas forward without much hesitation or pushback.”

And it’s that super majority that many members are indeed concerned about. A super majority gives the party veto and override power that a regular majority does not have, as I’ve discussed in previous Single Payer columns and related articles in the COIN.

“I don’t really see much of a change with a blue wave in California,” said Dave Fear Jr., CAHU President. “This state was already run by Democrats top to bottom and that did not change. They did pick up super-majorities in both houses, but as long as the governor is a progressive democrat, I don’t see them using their veto override on any issue.”

“CAHU has been working in a Democratic majority and supermajority for the last 8 years and we are getting pretty good at finding the right angles to push our agenda,” commented Brad Davis. Our members should remain concerned about a push for single payer health insurance, as the CNA and other organizations have promised to introduce a Bill to accomplish this. CAHU has already aligned itself with a large coalition against single payer that will be funding some research and white papers to address the unintended consequences of a government-run healthcare system. The more our members can continue the narrative of how detrimental the cost would be to taxpayers and the amount of quality doctors and services we will lose as a result, the better that will be for our consumer clients and agent members.”

Rob Semrow, OCAHU VP Legislation, stated “I think that single payer, in some fashion or another, will get a boost in discussion and consideration. **There will be little to stop it or push it back.**”

CAHU President Dave Fear Jr. stated that he was recently on a call with the Single Payer coalition and listened to Bernie Sanders and other prominent single-payer supporters provide a post-election update. “I will summarize by saying that they will not let cost or Trump or common sense stop them. You will see a push similar to what happened in California with SB 562 on the federal level in the House of Representatives. They plan to make Democrats support it or turn on them to do the same thing to Senators.”

**Continued on page 17**

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# COIN COMPLIANCE CORNER

What Agents and Your Clients Need to Know!



*January/February, 2019*

## *Legal Briefing*

**From Marilyn Monahan, Monahan Law Offices**

This is a summary of some recent developments of interest to consultants

and employers:

### **ACA/Federal: Highlights**

**IRS Inflation Adjustments:** This is the season for IRS inflation adjustments. In Revenue Procedure 2018-57, the IRS announced another round.

**Health Flexible Spending Account (FSA):** The maximum amount employees may contribute pre-tax through a cafeteria plan to a health FSA for 2019 is increasing to \$2,700 (from \$2,650 for 2018). Remember that changes to cafeteria plan terms must be in writing and may only be made prospectively, and cafeteria plan elections must be made before the start of the plan year. Employers may also want to remind their employees to use up their 2018 contributions before the plan year ends. (26 U.S.C. § 125(i).)

**Transportation Fringe Benefits:** The maximum monthly limit on exclusions for transportation fringe benefits (qualified parking, transportation in a commuter highway vehicle, and any transit pass) increases for 2019 to \$265 from \$260. (26 U.S.C. § 132(f)(2)(A) and 132(f)(2)(B).)

**Adoption Assistance Programs:** For taxable years beginning in 2019, the amount that can be excluded from an employee's gross income for the adoption of a child is \$14,080 (in 2018, the limit was \$13,810). The amount excludable from an employee's gross income begins to phase out for taxpayers with modified adjusted gross income in excess of \$211,160 and is completely phased out for taxpayers with modified adjusted gross income of \$251,160 or more. (26 U.S.C. § 137(a) and (b).)

**Qualified Small Employer Health Reimbursement Arrangement (QSEHRA):** The maximum reimbursement from a QSEHRA for 2019 is \$5,150 (\$10,450 for family coverage). The 2018 limit was \$5,050 (\$10,250 for family coverage).

*Continued on Page 18*

## *HIPAA Privacy & Security*

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

I have three new privacy & security cases to report on this issue.



### **ALLERGY PRACTICE PAYS \$125,000 TO SETTLE DOCTOR'S DISCLOSURE OF PATIENT INFORMATION TO A REPORTER**

On November 26, 2018, HHS Office for Civil Rights reported that Allergy Associates of Hartford, PD (Allergy Associates), has agreed to pay **\$125,000** to the Office for Civil Rights (OCR) at the U.S. Department of Health & Human Services (HHS) and to adopt a corrective action plan to settle potential violations of the HIPAA Privacy Rule.

Allergy Associates is a health care practice that specializes in treating individuals with allergies, and is comprised of three doctors at four locations across Connecticut.

In February, 2015, a patient of Allergy Associates contacted a local television station to speak about a dispute that had occurred between the patient and an Allergy Associates' doctor. The reporter subsequently contacted the doctor for comment and the doctor impermissibly disclosed the patient's PHI to the reporter.

OCR's investigation found that the doctor's discussion with the reporter demonstrated a reckless disregard for the patient's privacy rights and that the disclosure, according to OCR, occurred after the doctor was instructed by Allergy Associates' Privacy Officer to either not respond to the media or respond with "no comment." Additionally, OCR's investigation revealed that Allergy Associates failed to take any disciplinary action against the doctor or take any corrective action following the impermissible disclosure to the media.

In addition to the monetary settlement, Allergy Associates will undertake a corrective action plan that includes two years of monitoring their compliance with the HIPAA Rules.

The resolution agreement can be found on the OCR website.

### **FLORIDA CONTRACTOR PHYSICIANS' GROUP SHARES PHI**

*Continued on page 18*

**A.B. 2863 - Health Care Coverage: Prescriptions (Chapter 770):** A.B. 2863 limits the amount an HMO/insurer may require an insured to pay at the point of sale for a covered prescription to the lesser of the applicable cost-sharing amount or the retail price. A.B. 2863 also requires a pharmacy to inform a customer whether the retail price for a covered prescription is lower than the applicable cost-sharing amount, unless the pharmacy automatically charges the customer the lower price.

**A.B. 1048 – Schedule II Controlled Substances (Chapter 615):** First, as of July 1, 2018, A.B. 1048 authorizes a pharmacist to dispense a Schedule II controlled substance as a partial fill if requested by the patient or the prescriber. Regular cost sharing applies per partial fill. Second, as of January 1, 2019, A.B. 1048 requires an insurer/HMO to prorate the cost sharing for a partial fill of Schedule II prescription drugs. Cost sharing is based upon the number of days or number of pills.

**S.B. 1021 – Prescription Drugs (Chapter 787):** Existing law, until January 1, 2020, limits the amount that non-grandfathered individual and group plans may charge for an outpatient prescription drug for an individual 30-day prescription. S.B. 1021 extends this provision until January 1, 2024. Also, until January 1, 2024, the plan cannot have more than 4 tiers. S.B. 1021 also provides that an insured cannot pay more than the retail price for a prescription drug if a pharmacy’s retail price is less than the applicable copayment/coinsurance amount. S.B. 1021, until January 1, 2023, extends coverage for a combination antiretroviral drug treatments that are medically necessary for the prevention of AIDS/HIV.

#### Dental Coverage:

**S.B. 1008 - Dental Services: Disclosures (Chapter 933):** S.B. 1008 requires the use of a uniform benefits and coverage disclosure matrix for dental coverage. The requirement would take effect for plan or policy years on and after January 1, 2021, or 12 months after adoption of the emergency regulations, whichever occurs later.

#### Life Insurance:

**A.B. 1373 – Group Life Insurance (Chapter 425):** Under existing law, the definition of “employees” who may be covered by certain group life policies may include officers, managers, partners, individual proprietors, and employees.

This bill would include within the definition of employees, “classes of former employees, including retired employees.”

**A.B. 2634 – Life Insurance (Chapter 545):** For a policy in effect on or after April 1, 2019, this bill requires an insurer to provide a summary notice to a policyholder of a flexible premium life insurance policy whenever the policy is subject to an adverse change in the current scale of nonguaranteed elements or rates. The notice must be provided no later than 90 days before the change is effective.

#### Insurance Regulation: Miscellaneous:

**A.B. 2472 – Health Care Coverage: Analysis of Public Health Option (Chapter 677):** A.B. 2472 requires, by October 1, 2021, the Council on Health Care Delivery Systems to prepare a feasibility analysis on a public health insurance plan option to increase competition and choice for health care consumers.

**A.B. 2499 – Health Care Coverage: Medical Loss Ratios (Chapter 678):** Concerned about changes the federal government might make to the MLR requirements, California passed A.B. 2499. This bill codifies in state law existing MLR standards of 80% in the individual and small group market and 85% in the large group market. The MLR must be paid by September 30<sup>th</sup>.

**A.B. 2789 - Health Care Practitioners: Prescriptions: Electronic Data Transmission (Chapter 438):** A.B. 2789, by January 1, 2022, will require medical professionals to issue prescriptions electronically.

**S.B. 1156 – Premiums: Third Party Payments (Vetoed):** S.B. 1156 would have required insurers/HMOs to accept premium payments from certain designated third parties. The list of designated third parties was restrictive. The governor vetoed the bill because it “goes too far.”

**A.B. 2802 – Insurance Claims: Child Support (Chapter 439):** This bill, beginning January 1, 2020, requires an insurer to cooperate with the Department of Child Support Services to identify claimants who owe past-due child support and who may be claimants under an insurance policy. The types of claims at issue are those that are at least \$1,000 or more and that are paid under a life insurance policy, annuity, disability income policy, or property casualty policy (not including a claim for property damage).

**A.B. 2844 – Agents and Brokers (Chapter 879):** This bill requires that any commission payable to a broker-agent be at the rate and in accordance with the terms agreed to in writing between the insurer and the broker-agent. The bill would establish a rebuttable presumption that a commission is lawful if it is paid in accordance with specified statutes. A.B. 2844 requires the written contract to be consistent with specified laws governing contracts. The bill

## Feature Article, continued

would apply to a written agreement entered into or modified on or after January 1, 2019.

### Privacy:

**A.B. 2088 - Patient Records: Addenda (Chapter 275):** A.B. 2088 requires a health care provider to allow a patient, regardless of his or her age, to provide to the health care provider a written addendum to any statement in his or her records that the patient believes to be incomplete or incorrect.

**S.B. 1121 - Personal Information (Chapter 735):** S.B. 1121 amends the state's customer records laws (the California Consumer Privacy Act of 2018) to apply to "consumers" rather than "customers"—thereby expanding the scope of the law—and would allow for a civil suit in the event of a data breach.

### New Laws: The Workplace

**Sexual Harassment and Training:** The "me, too" movement has resulted in a number of new laws that impact the workplace:

**S.B. 1300 - Unlawful Employment Practices: Discrimination and Harassment (Chapter 955):** S.B. 1300 prohibits employers from requiring signed liability waivers in exchange for a bonus or continued employment. The bill also expands liability for acts of 3<sup>rd</sup> parties.

**S.B. 224 - Personal Rights: Sexual Harassment (Chapter 951):** This bill adds investors, elected officials, lobbyists, directors, and producers to the list of those who can be held personally liable for harassment.

**S.B. 1343 - Employers: Sexual Harassment Training: Requirements (Chapter 956):** By January 1, 2020, A.B. 1825 sexual harassment training must be provided by employers with 5 or more employees (rather than 50 or more employees). Supervisors must receive 2 hours of training, and non-supervisory employees must receive 1 hour of training, within 6 months of assumption of the position. The training must be repeated every two years.

**A.B. 2338 - Talent Agencies: Training (Chapter 967):** A.B. 2338 requires a talent agency to provide educational materials on sexual harassment prevention, retaliation, and reporting re-

Continued on page 23



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### Notice to Members:

#### NAHU Post Election Update

NAHU hosted an informative post-election webinar on Thursday, November 15, 2018. **The webinar was recorded and is available on the CAHU Website here:**

<https://nahu.org/resources/publications/webinars/live-from-nahu-post-election-update>

*Look in your inbox every Friday also for the Washington Update from NAHU.*



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**Single Payer Update, Continued from page 10**

So what can our members do, and what do we expect CAHU to do?

"We expect to find CAHU making new bedfellows in a joint effort to lobby against new taxation," stated Brad Davis. *"The incoming leadership seems to have an appetite to find new and creative ways to tax its citizens.* For example, a new tax on services (including the advice of an agent) would have a profound effect on our ability to deliver services. CAHU has had to expand the scope of its efforts beyond just healthcare in order to protect the agent members from many different adverse affects."

"I think the game plan for single payer is similar to what we saw before," commented Dave Fear, Jr. "The far left and the nurses will not accept the excuse 'I support single payer but...' from democrats. I think they will try to use social me-

dia and grass roots efforts to force elected representatives to take a public stance. They are leaving no room for moderates."

"[Our members] need to stay involved and stay engaged," said Rob Semrow. They have to stay vigilant and communicate with their consumers/clients. We are their advocates and if we are removed, they will have to do much more for themselves than they are used to or comfortable with."

"Members have to know their stuff on **why** single payer is not the best solution for our state or country," said Dave Fear Jr. "They need to be able to talk about cost, and lack of competition and lack of innovation associated with government-run health care. CAHU will continue to provide information to its members on single payer and other government run systems to help in that debate."

Please stay tuned for further updates! ##

**Retirement Plans:** For 2019, the maximum employee deferral limit for a 401(k) plan or a 457(e)(15) deferred compensation plan of a state or local government or tax-exempt organization is \$19,000 (an increase from \$18,500 for 2018). (IRS Notice 2018-83.)

**Patient-Centered Outreach Research Institute (PCORI) Fee:**

The ACA imposes a fee on the plan sponsor of an applicable self-insured health plan for each plan year ending after September 30, 2012, and before October 1, 2019. (Health insurers also have to pay this fee.) The fee is used to support the Research Institute. The adjusted applicable dollar amount for policy years and plan years that end on or after October 1, 2017, and before October 1, 2018, is \$2.39. The IRS recently announced, when it issued Notice 2018-85, that the applicable dollar amount that must be used to calculate the fee for policy years and plan years that end on or after October 1, 2018, and before October 1, 2019, is \$2.45. The fee must be paid each year by July 31, when the Form 720 is filed with the IRS.

**ERISA: Wildfires:** The Department of Labor issued a set of “FAQs for Participants and Beneficiaries following the 2018 California Wildfires.” It is available at this link: <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/2018-california-wildfires.pdf>

**California/Municipalities: Highlights**

**Editor’s Note: Don’t miss Marilyn Monahan’s presentation on January 8th, Legal Update, Preparing for 2019, which is a Consumer Education Day Event! Please register yourself and your clients.. See ad page 8!**

*Editor’s Note:* Marilyn Monahan can be contacted at Marilyn A. Monahan Law Office, 4712 Admiralty Way, #349, Marina del Rey, California 90292; (310) 301-3300 (office) or email her at [marlyn@monahanlawoffice.com](mailto:marlyn@monahanlawoffice.com) . ##

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**WITH UNKNOWN VENDOR WITHOUT A BUSINESS ASSOCIATE AGREEMENT**

Advanced Care Hospitalists PL (ACH) has agreed to pay **\$500,000** to the Office for Civil Rights (OCR) of the U.S. Department of Health & Human Services (HHS) and to adopt a substantial corrective action plan to settle potential violations of the HIPAA Privacy & Security Rules. ACH provides, according to OCR, contracted internal medicine physicians to hospitals and nursing homes in west central Florida. ACH provided services to more than 20,000 patients annually and employed between 39 and 46 individuals during the relevant timeframe.

Between November 2011 and June 2012, ACH engaged the services of an individual that represented himself to be a representative of a Florida-based company name Doctor’s First Choice Billings, Inc (First Choice). The individual provided medical billing services to ACH using First Choice’s name and website, but allegedly without any knowledge or permission of First Choice’s owner.

On February 11, 2014, a local hospital notified ACH that patient information was viewable on the First Choice website, including name, DOB, and social security number. In response, ACH was able to identify at least 400 affected individuals and asked First Choice to remove the

Continued on page 25

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# Membership News

New Members and Renewals! - John Evangelista, V.P. Membership

OCAHU is proud to announce the  
list of new members since

**October 1st**

Chris Della Sala  
Dan Galietto  
Joe Genova  
Donna McKeegan  
Hoa Nguyen  
Kerri Peterson  
Mike Sigal

**WELCOME NEW  
MEMBERS!**

Upcoming/Pending Renewals - Please renew your membership soon!

Dena Allchin  
Denise Anderson  
Logan Ascher  
Lisa Boyajian  
Edward "Rusty" Brown  
Jeffrey Chicots  
Alan Ewalt  
Arthyr Fries  
Gale Gajardo  
Angela Gambino  
Carla Ibarra  
James Laird  
Abid Lakhani

Bianca Lee  
Jerry Lynch  
Bill Mason  
Richard Mason  
Casey Meserve  
Nancy Mundell  
Cynthia Ostrowski  
Maria Perez-Flatt  
Joanna Ramey  
Stan Russel  
Barbara Salvi  
Veronica Sandval  
Jeffrey Scheibner

*Pending Renewals, Continued*

Ronald Sellers  
Erica Selvaggio Ferrari  
Jane Smith-Bowen  
Kenda Taylor  
John Wayland

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## New Members—Would you like to be featured in our New Member Focus Column?

If so, please send a photo and short bio to our editor. Also,  
include the answers to these questions:

- 1) How long have you been in this industry?
- 2) Why did you decide to join us at OCAHU?
- 3) What is most important to you about this association and what it can bring to you or help you with?

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*You could be featured in the next issue of the COIN!*

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*Editor's Note: Changes to the Board include VP Membership,  
now John Evangelista, and Social Media is temporarily vacant.  
Updates will follow in the next issue!*

November Webinar—NAHU Election Update

December Holiday Luncheon and Election Update Panel Photos



November NAHU Webinar—Election Update

Hosted by Kaiser Permanente

Panelists Jim Morrison, CAHU VP Legislation, Rob Semrow, OCAHU VP Legislation, and Dorothy Cociu, OCAHU VP Communications, Moderator

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Look For More Updates Soon!***

sources and nutrition and eating disorders to its artists.

**S.B. 820 - Settlement Agreements: Confidentiality (Chapter 953):** S.B. 820 bars confidentiality clauses in contracts in cases of sexual assault, harassment, or discrimination.

**A.B. 3109 - Contracts: Waiver of Right of Petition or Free Speech (Chapter 949):** A.B. 3109 makes a provision in a contract or settlement agreement void and unenforceable if it waives a party's right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or sexual harassment.

**A.B. 2770 - Privileged Communications: Communications By Former Employer: Sexual Harassment (Chapter 82):** This bill includes among those privileged communications complaints of sexual harassment by an employee, without malice, to an employer based on credible evidence.

#### Leaves of Absence:

**A.B. 2587 - Disability Compensation: Paid Family Leave (Chapter 80):** A.B. 2587 deletes the application of vacation leave to the waiting period for paid family leave (PFL) benefits, consistent with the removal of the 7-day waiting period for these benefits on and after January 1, 2018.

**S.B. 1123 - Disability Compensation: Paid Family Leave (Chapter 849):** S.B. 1123, as of January 1, 2021, expands the scope of the family temporary disability insurance program (PFL) to include time off to participate in a qualifying exigency related to the covered active duty or call to covered active duty of the individual's spouse, domestic partner, child, or parent in the armed forces of the United States.

#### Job Applicants:

**A.B. 2282 - Salary History Information (Chapter 127):** Last year, the governor signed A.B. 168, which limits an employer's ability to use salary history to set the wage for a new employee. This bill clarifies the provisions of A.B. 2282. This bill would define "pay scale," "reasonable request," and "applicant," among other terms.

**S.B. 1412 - Applicants for Employment: Criminal History (Chapter 987):** S.B. 1412 updates the rules relating to the questions that an employer, including a public agency or private individual or corporation, from asking an applicant about, or seeking from any source information regarding, a particular conviction

of the applicant.

#### More Workplace Laws:

**S.B. 826 - Corporations: Boards of Directors (Chapter 954):** No later than the close of the 2019 calendar year, SB 826 requires a publicly held corporation whose principal executive offices are located in California to have a minimum of one female on its board of directors. No later than the close of the 2021 calendar year, the required minimum increases to 2 female directors if the corporation has 5 directors or to 3 female directors if the corporation has 6 or more directors.

**A.B. 1976 - Employment: Lactation Accommodation (Chapter 940):** Existing law requires every employer to provide a reasonable amount of break time to accommodate an employee desiring to express breast milk, and requires an employer to make reasonable efforts to provide the use of a room or other location, other than a toilet stall, in close proximity to the employee's work area for the employee to express milk in private. A.B. 1976 clarifies that an employer must make reasonable efforts to provide an employee with use of a room other than a bathroom.

**A.B. 2358 - Apprenticeships: Discrimination: Prohibition (Chapter 675):** AB 2358 expressly prohibits discrimination in any building and construction trades apprenticeship program on the basis of certain enumerated categories, including, race, sex, religious creed, or national origin, with regard to acceptance into, or participation in, such a program.

**S.B. 970 & A.B. 2034 - Human Trafficking Awareness (Chapter 842 & 812):** These bills amend the Fair Employment and Housing Act (FEHA) to require certain employers (in the hotels/motels and mass transit industries) to provide at least 20 minutes of training and education regarding human trafficking awareness.

**A.B. 2610 and A.B. 2605 - Meal Periods: Commercial Drivers and Petroleum Facilities (Chapters 148 and 584):** These bills establish new rules relating to meal and rest breaks for commercial drivers and petroleum facilities.

*Editor's Note:* Marilyn Monahan can be contacted at Marilyn A. Monahan Law Office, 4712 Admiralty Way, #349, Marina del Rey, California 90292; (310) 301-3300 (office) or email her at [marlyn@monahanlawoffice.com](mailto:marlyn@monahanlawoffice.com) . ##

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PHI from its website. ACH filed a breach report with OCR on April 11, 2014, stating that 400 individuals were affected; however, after further investigation, ACH filed a supplemental breach report stating that an additional 8,855 patients could have been affected. OCR's investigation revealed that ACH never entered into a Business Associate Agreement with the individual providing medical billing services to ACH, as required by HIPAA, and failed to adopt any policy requiring business associate agreement until April, 2014. Although ACH had been in operation since 2005, it had not conducted a risk analysis or implemented security measures or any other written HIPAA policies or procedures before 2014. The HIPAA Rules require entities to perform an accurate and thorough assessment of the potential risks and vulnerabilities of the confidentiality, integrity, and availability of an entity's electronic PHI.

In addition to the monetary settlement, ACH will undertake a robust corrective action plan that includes the adoption of business associate agreements, a complete enterprise-wide risk analysis, and comprehensive policies and procedures to comply with the HIPAA rules.

***In a non-HIPAA major breach, Marriott Hotels/Starwood Hotels announced a major data breach in their guest reservation services.*** An internal investigation showed that unauthorized access has been ongoing since 2014.

In a number of online and TV news reports, the company has confirmed that the personal information of up to 500 million guests who made a reservation on or before September 10, 2018 was exposed. I was unfortunately (as I'm sure many of you were as well) notified of this event on December 7th.

For approximately 327 million (of the 500 million) of these guests, the exposed information includes some combination of name, mailing address, phone, email addresses, passport numbers, DOB, gender, arrival and departure information,

possibly encrypted credit card numbers and expiration dates.

Marriott recently discovered that an unauthorized party had copied and encrypted information, and took steps toward removing it. On November 19, 2018, Marriott was able to decrypt the information and determined that the contents were from the Starwood guest reservation database.

Marriott states that the payment card information was encrypted using AES 128, and that there are two components needed to decrypt the payment card numbers, and at this point, Marriott has not been able to rule out the possibility that both were taken. For the remaining guests, the information was limited to name and sometimes other data such as mailing addresses, email address and other information.

Marriott is in the process of notifying it's customers and has taken many steps to help you monitor and protect your information, including a dedicated call center, email notification to guests affected and free WebWatcher enrollment.

They are advising guests to monitor your Marriott and SPG account for suspicious activity, change your passwords regularly, do not use the same passwords on multiple accounts, review your payment card account statements for unauthorized activity and immediately report any unauthorized activity to the bank that issued your card.

Marriott/SPG also advises that you be vigilant against third parties attempting to gather information through deception "phishing" through links to fake websites. Marriott says it will NOT ask you to provide your password by phone or email. They also ask you to immediately contact your national data protection authority or local law enforcement if you believe you are a victim of identity theft or your personal data has been used.

*Basically, they are advising you to do much of the same as I have been doing in a number of articles and columns in the COIN! ##*

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**SPECIAL CAHU PRESS RELEASE  
FOR MEMBERS IN THE SENIOR  
MARKET**

*You can also review the FAQ on  
the CAHU website!*



**NOTICE OF SPECIAL ELECTION  
PERIOD (SEP) FOR THOSE INDIVIDUALS AFFECTED BY THE CALIFORNIA WILDFIRES. CMS HAS DECLARED THE SEP FOR COUNTIES OF BUTTE, LOS ANGELES AND VENTURA**

**SPECIAL ELECTION PERIOD (SEP) FOR VICTIMS OF WILDFIRES THROUGH MARCH 31ST**

The Centers for Medicare & Medicaid Services (CMS) has announced an extension to the Emergency & Major Disaster Special Election Period (SEP) for those beneficiaries impacted by the California Wildfires.

This Special Election Period is for Medicare beneficiaries who were prevented from submitting an enrollment request as a result of recent California wildfires. Beneficiaries who reside in the California counties of Butte, Los Angeles and Ventura are eligible for this SEP. **This SEP also includes those individuals who don't live in affected counties but who rely on help making health care decisions from friends or family members who do live in the impacted California counties.**

Beginning on December 8, after the close of the Annual Election Period (AEP), eligible individuals can enroll, dis-enroll or switch MA/MAPD plans through March 31, 2019. Enrollments are effective the first of the month after the plan receives the enrollment request.

**Only those beneficiaries who did not make an election during AEP are eligible for the extension.** If an enrollment decision was made during AEP, the beneficiary will not have this SEP available. The impacted beneficiary **MUST** have missed or was prevented from making an enrollment decision during an eligible enrollment period. (*Note: the enrollment period can be specific to that beneficiary, i.e. loss of SNP or moving out of the area – but it should be verified as best we can prior to taking the application.*)

Since the Open Enrollment Period (OEP) is running at the same time as the SEP, the SEP should be used first. If the beneficiary uses the OEP first, they will not have the SEP available to them. If they use the SEP first then later change their mind about their election, the OEP is still available to them.

An individual can use this SEP **one time** for each election period they missed. Thus, individuals who made an election during AEP and/or used this SEP to make a 2018 plan election are ineligible to use this SEP.

You may ask for proof of residence to determine if an individual resided in an affected area (e.g., driver's license, utility bills, etc.) at the start of the incident period, but must accept an attestation if an applicant states that his or her documents were destroyed or are not accessible. **When there are questions about eligibility, CMS will make the determination.**

**As a reminder:**

If an individual wants to take advantage of the SEP, an agent may take the application and submit it to the plan according to the existing process/procedure.

A beneficiary may contact CMS: if they want to know all plans in their area; for enrollment assistance; or if they have any questions. They can reach CMS by calling 1-800-MEDICARE (1-800-633-4227) anytime, 24 hours a day, 7 days a week. TTY users should call 1-877-486-2048.

If the beneficiary knows what plan they want to select, they can call the plan or their plan broker/agent directly to enroll.

In order to qualify for the SEP, the beneficiary must either live in an impacted county OR have the person who helps them make their healthcare decisions living in one of those counties.

The broker/agent has until March 31, 2019, to assist impacted beneficiaries with enrollment.

To review up-to-date information, you may go to the [FEMA Disaster Declarations Site](#). This information is updated weekly. ##

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**For Additional OCAHU Sponsors, See Page 11!**

**- THE C.O.I.N. -**

**Please join us at our events!**

**SCHEDULE OF EVENTS:**

**January 8, 2019, OCAHU Consumer Education Day**, Hyatt Regency, John Wayne Airport, 4545 MacArthur Blvd., Newport Beach, CA, **Marilyn Monahan, Legal Update: Preparing for 2019. Bring your clients.** 11 am—1 pm. See ad page 8. CE pending.

**February 8, 2019, OCAHU Business Development Summit, A Perfect Storm; Health & Financial Wellness**, Hyatt Regency, John Wayne Airport, 4545 MacArthur Blvd., Newport **Beach** (Note Friday, not Tuesday), 7:30 am—3:30 pm. See ad page 24.

**March 12, 2019, 3-Hour CE: Ethics**, Hyatt Regency, John Wayne Airport, 4545 MacArthur Blvd., Newport Beach, CA, **Joe Navarro**, Warner Pacific. CE Pending. See ad page 9.

**March 14, 2019, OCAHU PAC Fundraiser Event**; Sports Watching Trifecta, JT Schmids Anaheim, 5 pm.

**April 15, 2019, Annual Charity Golf Tournament**, Alta Vista Country Club, Placentia. See ad page 22.