

Orange
County Association of
Health
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Volume 13, Issue 5
March/April 2019



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Feature Article:

**Does the Recent Court Case in
Texas Mean the End of the ACA?
*What Do We Tell Our Clients?***

**By: Dorothy Cociu, RHU, REBC, GBA,
RPA, OCAHU VP of Communications
& Public Affairs**

See page 5

Inside this Edition:

- Feature Article: *Does the Recent Court Case in Texas Mean the End of the ACA? What Do We Tell our Clients?*
- Compliance Corner—*Legal Briefing; Privacy & Security Updates and Enforcement*
- Single Payer Update - *Federal and State Updates*
- BDS 2019 Event Coverage
- 2019 Pinnacle Award Winner Coverage
- Membership News; New Members and Renewals
- OCAHU March Trifecta to Benefit CAHU PAC
- NAHU Capitol Conference Coverage
- Schedule of Events

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Contact a board member today! See page 20 for a complete list!

Wow, What a Month!

Two Incredible Events in March!

3 Hour CE on Ethics

March 12, 2019

10:30-2:30

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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, Ryan Dorigan

Greetings OCAHU:

It was a great pleasure to see so many of you at our recent Broker Development Summit last month. It was a very successful event and we have received excellent feedback from the agents who attended. We want to thank all of the speakers who took the time to come from as far away as Washington D.C. to provide their industry insight.

This year's event was very educational, so please make plans to join us again next year.

As we look forward to warmer temperatures and spending more time out of the office, we want to make sure to remind everyone about some of our exciting events that we have coming up in the next few months.

One last reminder that we will be over at JT Schmid's across from the Honda Center for our upcoming sports trifecta spectacular. We will be raising funds for our PAC, and will be enjoying some delicious food and mouth watering cocktails as we enjoy a night jam packed with local sports. The Ducks game will be on TV and will start at 6PM. The Lakers game will tip off at 7PM, plus March Madness games (TBD), so we will have something for everyone.

We will also be hosting our Vanguard event at the Whispering Owl Distillery. Join us for a fun evening at Orange County's oldest whiskey distillery. We will enjoy tastings and a full guided tour of the distilling process. If you are new to this Industry and you are still young at heart, then please join us for this upcoming Vanguard social event.

Coming up next month we will be back at Alta Vista Country Club for our Annual Golf Tournament. We will have "The Hab-

it" truck back, serving delicious burgers and fries before the round, and the "Nail Truck" will also be on site offering manicures and pedicures to anyone who may not be interested in golfing. We will have a charity auction and an awards celebration dinner as well. Part of the proceeds will go to the cystic fibrosis foundation, so it will be a really fun event and its part of a tremendous cause!

In June, we will be hosting our Celebration of Women in Business. We will have a fashion show, as well as a delicious lunch and charity auction. The wine will be flowing and this is always one of our most fun and well-attended events of the year.

We are always looking for volunteers to help us put together these events. We are also always looking for Sponsors as well, so one of these events may be key to marketing your products and services to our membership. Please contact us if you'd like to be a sponsor!

We recently returned from our NAHU Capitol Conference in Washington D.C. It was a very enlightening experience to meet with all of our new members of Congress from here in Orange County. It doesn't appear that the single payer debate is going anywhere in 2019, but Medicare for All is on the table in Washington, DC. We are taking this opportunity to build relationships with the legislators who will be making these decisions will be key to preserving the role of the agent.

We can't win this fight all on our own. We need the support from the agents. ##

OCAHU BDS 2019 Photos



Above: Awards Luncheon; Right: OCAHU BOD members Barbara Salvi and Pat Stiffer help people register.



Top Right: Kandi Brennan, Lizette Weinstein, Anna Grubbs, Terri Green, Rola Ziade, John Evangelista; Bottom Right: Exhibit Hall, including Jason Reichert.



Feature Article: Does the Recent Court Case in Texas Mean the End of the ACA?

What Do We Tell Our Clients?

By: Dorothy M. Cociu, RHU, REBC, GBA, RPA

OCAHU V.P. Communications & Public Affairs

On December 14, 2018, a Federal District Judge, Judge Reed O'Connor, in Texas, struck down the ACA as unconstitutional. The judge ruled in favor of the plaintiffs by determining that the "individual mandate" is no longer a tax, and is therefore an unconstitutional exercise of congressional authority. This was somewhat expected. The judge also found that the individual mandate was inseverable from the remaining parts of the ACA, which makes the *entire* ACA, not just the guaranteed issue and community rating provisions, unconstitutional. According to Judge O'Connor, "The requirement is an essential part of this larger regulation of economic activity, and the absence of the requirement would undercut Federal regulation of the health insurance market," and he based this on Congress' own words about the individual mandate. He also reminded us that each of the nine Supreme Court justices in the 2012 case (see below) had agreed that the individual mandate was inseverable from at least some other ACA provisions (for example, the prohibition against pre-existing conditions.)¹

The lawsuit of *Texas v. United States* related to the enforcement of the ACA, and according to several news sources, was filed on February 26, 2018 by Republican state attorneys general and governors from 20 states and 2 individuals, claiming that the individual mandate, as amended by the ACA, is unconstitutional, and is therefore **not** severable from the ACA. The Trump Administration reportedly declined to defend the case, but attorneys general reportedly from 16 states and the District of Columbia stepped in to defend the ACA.

You may recall that the individual mandate penalty was reduced to zero as part of the 2017 Tax Cuts and Jobs Act.

The ACA had originally been upheld in 2012 by the US Supreme Court in *National Federation of Independent Businesses (NFIB) v. Sebelius*, on the grounds that the individual mandate was a legitimate exercise of the congressional taxing power. The plaintiffs argued in the 2018 case that now that the penalty is \$0 and no longer raises revenue for the government, the individual mandate is no longer a tax, and is therefore unconstitutional. The plaintiffs further argued that the entirety of the ACA relies on the continued existence of the individual mandate, making the individual mandate inseverable from the rest of the ACA. Thus, the plaintiffs allege, the individual mandate being unconstitutional makes the entire ACA unconstitutional.²

In response to the ruling on December 14, 2018, President Trump tweeted: "As predicted all along, Obamacare has been struck down as an UNCONSTITUTIONAL disaster! Now Congress

must pass a STRONG Law that provides GREAT healthcare and protects pre-existing conditions."

A stay was issued almost immediately, on December 30, 2018, pending appeal. If the ruling stands, which is questionable given that the appeal has been filed in the 5th Circuit, there could be some significant consequences.

According to John Hickman, Esq, and Ashley Gillihan, Esq, in a post-decision webinar for the Self-Insurance Institute of America in early 2019, the ruling will likely be heard sometime in late 2019. If the 5th Circuit affirms the decision, it will head to the Supreme Court, with a decision sometime in late 2020. If the 5th Circuit reverses the decision, the ACA will likely continue as it is currently.

But what do we tell our clients? I know mine have been asking me since December what this all means? What do we do? *Can we stop tracking and reporting? Can we stop offering affordable coverage to our employees? What will change?* If you're getting these same questions, I'd like to address some of their questions, and assist you in some simple answers.

First, it's good to let your clients know that *even if the decision is upheld, and the entire ACA is declared unconstitutional, no changes in health plans are likely to happen before 2021, at the earliest.* Therefore, life as we know it (and report on it) shall continue, as status quo, for the time being. So the simple answers are yes, you have to keep tracking and reporting if you're a large employer, and no, you can't stop offering affordable coverage to your employees (unless you want to pay penalties of course).

But what if the decision is upheld, meaning the end of the ACA? All we can do is speculate for now, but there is some simple logic that we can apply to all of this.

Changes could and will likely occur to post-ACA plans, that will in essence make them look like pre-ACA plans. Remember, annual and lifetime limits were removed due the ACA... If that goes away, we could see plans put these limits back in. Annual out-of-pocket maximums would likely also increase, because they were tied to metallic plans in the ACA. You may see some increased premiums, and employee contributions may likely increase, as the affordability provisions

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Feature Article, Continued from page 5

of the ACA would go away, and the government would no longer be defining the affordability of a plan. This could also mean the elimination of the 90 day maximum for waiting periods, and plans could go back to the first of the month following 90 days, or longer, if they so choose. Some of the burdensome requirements of plans would likely also be eliminated, including SBCs, and the employer reporting from Section 6055 and 6056 employer shared responsibility (ESR) and their related penalties.

However, there are some very popular things that came out of the ACA that may be less impacted by the elimination of the ACA. Keep in mind... It's difficult to take things away once they've been given...

Items that could continue that were part of the ACA due to popularity include: 100% preventive care (you could likely see some variations, but plans may want to continue to offer 100% preventive care); no pre-existing conditions; dependent child coverage to age 26 (although it's likely that we could see modifications, such as marriage and/or "other coverage" exclusions and related; and quite possibly we may continue to see some form of Minimum Value Coverage).

Things we're not as sure about include the terms of the Employer Shared Responsibility provisions of the ACA. Again, it's hard to take away what employees were previously given. We can venture to assume that there could be pre-ACA definitions of a full-time employee (i.e. 40 hours rather than 30 hours), and possibly some reinstatements of previously traditional exclusions included, such as seasonal and temporary employees.

Some have mentioned the resurgence of things like HRAs, because the integration rules would go away, which could possibly lead to more stand-alone HRAs for groups that were offered coverage solely because of the ESR rules. Smaller employers, some guess, may use HRAs to pay premiums for individual coverage without the limitations otherwise imposed on permissible premium reimbursement by the recent proposed rules.

So, what do we tell our clients that they should be doing in the meantime, until the case goes through the appeals process and possible supreme court? **In short, nothing for the time being....** Continue to do what you're doing, and wait and see.

Marilyn Monahan, attorney from Monahan Law Office, added some additional suggestions on this topic. "Employers and producers should keep an eye on state developments. First, we should remember that the California legislature has already codified many of the ACA's provisions into California

law. These provisions will not automatically go away if the ACA is found to be unconstitutional. Second, state politicians are looking at additional changes they can make into state law to address changes to the ACA being made at the federal level, and these discussions are likely to continue as we head into the 2020 election year. These factors are further reasons why employers should stay informed, but continue on the same course they are currently on."

It's also important, I think, to *address what we know, rather than focusing on what we don't know.* For example, many regulatory and legal issues will continue indefinitely, because they are not part of the ACA. This includes the ERISA requirements, including 5500 reporting, Plan Document and SPD rules, Section 125 Pre-tax requirements, HIPAA Privacy & Security Rules, HITECH Rules, etc.

##

Reference Sources:

1) The National Law Review: "Ho! Ho!Ho! Where Did It Go?" Texas Court ACA Ruled Unconstitutional, By Monique Warren, December 16, 2018

2) Texas v. United States – Texas Federal Court "Strikes Down" the ACA'; By Jordan Grushkin, Matthew Goldman & Melissa Gertler, December 19, 2019, Posted Affordable Care Act (ACA) Healthcare Reform

3) Alston & Bird, Texas v. U.S.: The End of the ACA? Webinar, Self-Insurance Institute of America

Other Reference Sources: Eversheds Sutherland, Legal Alerts. LEGAL ALERT: TEXAS V. UNITED STATES DECISION COULD IMPACT EMPLOYER-SPONSORED HEALTH PLANS, January 4, 2019 (online reference)

Author's Note: *I'd like to thank Marilyn Monahan for her assistance with this article (see Compliance Corner, Legal Briefs, each COIN issue!), as well as the Self-Insurance Institute of America and their attorney webinar hosts, John Hickman, Esq., and Ashley Gillihan, Esq., Alston & Bird, LLP.*

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OCAHU 2019 Pinnacle Award Winner

Maggie Stedt

On February 8, 2019, at the 2019 Business Development Summit, OCAHU awarded its Pinnacle Award to **MARGARET "MAGGIE" STEDT, CSA, LPRT**, President, Stedt Insurance Services, Inc.

Margaret "Maggie" Stedt is Independent Contractor/Licensed Agent and Consultant. She is a Certified Senior Advisor and a member of NAHU's Leading Producers Round Table at the Golden Eagle Level. Mrs. Stedt has over 40 years of experience in essential areas of the insurance industry, including consulting services, sales and product development, compliance and management.

Maggie is currently the Orange County Association of Health Underwriters' (OCAHU) VP of Professional Development. In the past, she has served several roles in the local association; General Board Member, VP of Membership and Past President (2015-17). She also serves as a committee member of the Celebration of Women in Business Annual Charity Luncheon & Fashion show since joining OCAHU in 2004.

Maggie is the founder of the **Senior Summit**, which has grown in the past eight years from a carrier panel to a Summit attended by well over 800 agents and company representatives. The Summit, which is the largest event in the national association, is jointly conducted by Orange County, Inland Empire and San Diego AHU chapters. Together with her co-chairs Yolanda Webb and Ricky Haisha, they have led the way to generating chapter excitement across the country, bringing Medicare Summits to the forefront.

She was awarded NAHU's 2017 Presidential Citation Award, and NAHU's 2016 Distinguished Service Award. She has also been recognized by CAHU for membership recruitment and growth and was awarded the CAHU Presidential Citation in 2016.

Maggie is a Distinguished Toastmaster and currently serves as a Lay Speaker and the Lay Leader for Palisades United Methodist Church in Capistrano Beach in 2019-2020.

Maggie and her husband of 46 years, Jim, live in San Clemente, CA with two young kitties, enjoying their free time spoiling nieces, nephews and their families, and occasionally finding their way to a local casino!

Congratulations, Maggie! ##



Left: Maggie Stedt after award presentation; Center: Juan Lopez with Maggie after award; Above: Volunteers help with the event!

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

We're well into 2019 now, with a new California Governor, a new Insurance commissioner (both democrats supporting Single Payer), a

blue wave (*or tsunami!*) in Sacramento, and now, in the House in Washington, DC. We're pretty much used to the Blue in Sacramento, but the Congressional elections were a shock to most, with Republicans losing the House Majority and sending shock waves through our industry.

On the federal side, we have Medicare For All heating up. We all know that the Democrats picked up a lot of Congressional seats in the house this past November. Even my own Congressional District, formerly a republican strong-hold until the retirement of Ed Royce, resulted in a very close race, with Democrat Gil Cisneros beating out Republican Young Kim; the result was a lot of newly elected democrats into the House of Representatives, and Nancy Pelosi taking over as Speaker of the House. The Senate, however, maintained its Republican majority.

NAHU and CAHU refuse to let this discourage them, however, and instead want to focus on the opportunities this brings... Opportunities to become important educators to the new Congressional members, and to catch them while they are new, to encourage them to learn more about the role of the Agent, and how we are advocates to our clients, who are individuals, small and large groups, and Medicare enrollees. (see Capitol Conference article, page 13).

Key issues from the November elections in Congress showed that healthcare was the #1 cited issue among voters, beating the economy for the first time. A clear majority of voters perceived Democrats as stronger on pre-existing conditions and voted accordingly, according to Janet Trautwein, CEO of NAHU.

We all know Medicare for All is heating up in Washington.

The good news is, despite the media narrative on Medicare-For-All, voters signaled they wanted pragmatic, bipartisan solutions to the challenges in the healthcare system.

According to NAHU's recent webinar on the election recap (Live From NAHU, featuring Janet Trautwein, CEO), among competitive elections, *71% of Democrats who won (32 of 45) did not support Medicare For All. Among Democrat pickups from Republicans, 86% of Democrats (30 out of 35) did not run on Medicare for All. Only 2 of 967 ads run by Democrats in competitive House races since Labor Day mentioned Medicare-For-All.* So that's something to build on.

Medicare for All is a looming threat, but according to Janet Trautwein and NAHU, is largely undefined.

A recent NAHU Operation Shout asked for NAHU members to participate in communicating with your legislators about Medicare-for-All. According to this operation shout (see below), proponents of government-run healthcare, including single-payer and Medicare-for-All, will be on Capitol Hill advocating for programs that could threaten the private health insurance system. NAHU stated that it strongly opposes these efforts and is working with the Partnership for America's Health Care Future to promote employer-sponsored health coverage and preserving Medicare, Medicaid, and other existing health programs. We are calling on all NAHU members to join us in our efforts to urge Congress to oppose any efforts to implement government-run healthcare.

NAHU's message is that we, as an association, are committed to ensuring that every American has access to affordable, quality health coverage. We believe that the free market and public programs can bring down the cost of care and expand access to high-quality care for every American. But a one-size-fits-all healthcare system would lead to less choice and control over doctors, treatments, and coverage, and result in higher taxes for families, longer wait times, and lower quality of care for patients. We believe that instead of considering single-payer healthcare proposals, Congress should focus on bringing costs down for everyone, no matter where they get their insurance.

As Congress heard from advocates during the Medicare for All Week of Action from February 9-13, NAHU wanted to ensure they also hear from voices throughout the country who support access to affordable private health insurance choices.

NAHU asked that we all Contact our Senators and Representatives by sending an Operation Shout, urging lawmakers to oppose efforts to implement a single-payer healthcare system. Hopefully, you all did that. On Feb. 25-27, several of us were in Washington, DC sharing this message. (See Capitol Conference coverage, page 13).

So that is the federal side. On the state side, our new Governor started his new role fast and furiously after he was inaugurated. One of his first actions was of course signing a letter asking the federal government's permission to mingle federal dollars and state funds into a single

Continued on page 17

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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

ACA: Hospital Chargemaster Disclosure: Final Rule: To improve price transparency, section 2718(e) of the Affordable Care Act (ACA) requires each hospital operating within the United States to post (and annually update) a list of the hospital's standard charges for items and services provided by the hospital. In August, CMS issued implementing regulations and guidance, and hospitals started to comply on the effective date of the rule, January 1, 2019. However, concern was raised that laypersons may have difficulty understanding the descriptions used by the hospitals, and that the prices reported do not reflect discounts given to health plans. As a result, CMS is looking at whether additional amendments should be made to the regulations.

Tax Cuts and Jobs Act: Paid Family Leave: The Tax Cuts and Jobs Act (H.R. 1; Public Law No. 115-97) created a partial tax credit for employers that offer paid family leave programs. To be eligible, the programs must be in writing and follow an extensive set of rules. Last fall, the IRS has issued further guidance on the tax credit, including FAQs and IRS Notice 2018-71. The tax cut is effective for wages paid in the 2018 and 2019 tax years.

Tax Cuts and Jobs Act: Transportation Fringe Benefits: The Tax Cuts and Jobs Act changed the tax rules for both for-profit and non-profit entities that offer transportation fringe benefits. These benefits remain tax-free for employees, but they are not deductible by employers. IRS Notice 2018-99 provides guidance to for-profit employers on how to determine the amount of parking expenses that is non-deductible, and for tax-exempt organizations to determine the corresponding increase in the amount of unrelated business taxable income attributable to the non-deductible parking expenses.

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HIPAA Privacy & Security

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

I only have one HIPAA Privacy & Security enforcement action to report this issue.



On December 11, 2018, HHS/OCR announced that a Colorado hospital, Pagosa Springs Medical Center (PSMC), agreed to pay \$111,400 to the Office of Civil Rights (OCR) at the US Department of Health & Human Services and adopt a substantial corrective action plan to settle potential violations of the HIPAA Privacy & Security Rules. PSMC is a critical access hospital that at the time of the OCR investigation, provided more than 17,000 hospital and clinic visits annually and employs more than 175 individuals.

The settlement resolves a complaint alleging that a former PSMC employee continued to have remote access to PSMC's web-based scheduling calendar, which contained patients' electronic protected health information (ePHI), after separation of employment. OCR's investigation revealed that PSMC impermissibly disclosed the ePHI of 557 individuals to its former employee and to the web-based scheduling calendar vendor without a HIPAA-required business associate agreement in place.

Under the two-year corrective action plan, PSMC has agreed to update its security management and business associate agreements, update policies and procedures, and train its workforce members regarding the same.

Covered entities that do not have or follow procedures to terminate information-access privileges upon employee separation risk a HIPAA enforcement action. Covered entities must also evaluate relationships with vendors to ensure that BA Agreements are in place with all business associates before disclosing PHI.

In the next issue, I will address new California Privacy Laws going into effect in 2020, if space permits.

##

OCAHU Heads to NAHU's Capitol Conference, Washington, DC

NAHU hosted its annual Capitol Conference in Washington, DC February 24-27, 2019. OCAHU had a strong membership and board presence for our congressional visits.

The priority messages for members of Congress included: **Market Stabilizers to reduce costs and improve individual and employer market risk**, including: Repeal the Cadillac Tax (HR 748), Allow tax credits to be used outside of Marketplace if fewer than 2 choices offered in a state; Reduce the 90 day grace period for nonpayment of premium for individuals receiving premium tax credits to the same 3 day grace period allowed for other covered individuals; Allow states to be eligible for funding for new hybrid high-risk pools... **In the Employer Based Market:** Preserve the employer tax exclusion, as proposals that would cap the maximum or eliminate it would be detrimental to the stability of the employer-based market; Allow states to be eligible for funding for small group reinsurance; **Surprise Billing/Balance Billing:** Prohibit health care providers from balance billing patients in cases of emergency, involuntary care, or instances where they had no choice of providers; Require notice to be furnished to patients informing them of a provider's network status and possible options for seeking care elsewhere; Prohibit arbitrary and excessive bills in these situations by setting reimbursement criteria based on market rates determined as reasonable, or similar providers in a geographic area or a percentage of Medicare.

In the Medicare Market, NAHU lobbied for allowance of COBRA coverage to count as credible coverage for Medicare beneficiaries just as employer-sponsored coverage does.; Modify Medicare Advantage marketing rules to suspend the scope of appointment requirements for agents and brokers; Allow observation stays to be counted toward the 3-day mandatory inpatient stay for Medicare coverage of a skilled nursing facility.

The speakers were incredible, and NAHU was lucky enough to have HHS Secretary Alex Azar as the keynote speaker on Wednesday, February 27, 2019.

Due to the dates of the conference bumping up right to our COIN deadline for the March/April, 2019 issue, we may not have received all of the photos and information about the conference to include in this issue, but promise to include more in the next issue (May/June 2019) if we receive more from our attendee members! ##

Bottom right: NAHU's Chris Hartmann, Marcy Buckner and John Greene updating the attendees on the primary legislative bills and key concepts to cover on the hill.

Top Right: HHS Secretary Alex Azar as keynote speaker at NAHU's Capitol Conference, 2019



Middle Right: David Benson & Dorothy Cociu outside Congresswoman Katie Porter's Office



David Benson & Juan Lopez outside Congresswoman Katie Porter's Office



**More Event Photos!
Capitol Conference 2019**



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HHS Secretary Alex Azar

Above: OCAHU's Cathy Daugherty wins NAHU PAC Award; Below: OCAHU's Maggie Stedt sits on Medicare Panel Breakout Session



Left: Cathy Daugherty, Meg McComb, Dave Benson with Congressman Luis Correa at Longworth office building



Left: OCAHU planning meeting for visits to the Hill. Maryanna Trutanich, Juan Lopez, Nick Garnett, Dave Benson, Dan Abrams, Maggie Stedt, Pat Stiffner, & Dorothy Cociu

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Above: Charlie Cook, Political Analyst, at Cap Conference

Capitol Conference 2019 Photos

Below: Juan Lopez, Meghan McConnell, Legislative Assistant to Congresswoman Linda Sanchez, Maryann Trutanich, Dorothy Cociu & Dan Abrams, outside Rayburn office



Above: Dorothy Cociu, Brieana Martucirena (Legislative Director for Congresswoman Katie Porter), Dave Benson & Juan Lopez inside Longworth office building

Capitol Conference 2019 Photos



Pat Stiffer, Janet Trautwein & Dave Benson



Left: OCAHU board members with Rusty Rice and Pat Griffy, NAHU President & President-Elect.



Above: Pat Stiffer, Janet Trautwein, Dorothy Cociu at HUPAC Reception; Below: Pat Stiffer, Maryann Trutanich, Cathy Daugherty, Ryan Dorigan & Dorothy Cociu



MaryAnn Trutanich, Pat Stiffer, Maggie Stedt, Susan Sheldon-Livingston, Paula Wilson



Below: OCAHU members at Carmine's Italian Restaurant



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Single Payer Update, Continued from page 10

payer system. According to CAHU's President, Dave Fear, Jr., "This was a ceremonial request. We know the Trump administration is not going to approve this request."

With a Democratic Super Majority in Sacramento, and every state-wide office filled by Democrats, a lot can happen in a short time. Therefore, we have to remain vigilant, and be ready to act quickly when NAHU or CAHU asks us to.

With the governor's top priorities announced immediately, California could be the first state to expand ACA's financial assistance to middle-income families, and our state could create state buying power to purchase prescription drugs in a collaboration with the pharmaceuticals industry. *Of course, what is on the mind of all agents in California is that Governor Newsom's highest priority long-term is some sort of Medicare-for-All, Universal Coverage or a public-private partnership for health care.*

AB 2472 in 2018 created an independent body charged with developing a plan by October 1, 2021, including options for advancing single payer in California.

While we don't expect specific legislation to be introduced in 2019, it's definitely on the horizon... estimated time of arrival unknown at this time...

At every OCAHU meeting, I get the same questions... Do we need to worry about single payer now? When? What can we do to stop it or change it? What is CAHU doing to protect our industry?

CAHU remains a active part of a coalition to fight the single payer fight. We urge members to sign up for the latest developments at <https://protectcahealthcare.org/coalition-sign-up/>.

What should members do? According to Dave Fear, Jr, CAHU President, members should "support efforts that move to-

Continued on page 23

CMS Disclosure for Medicare Part D: Each year, group health plan sponsors (unless exempted) must file an on-line disclosure with the Centers for Medicare & Medicare Services (CMS) within 60 days after the beginning date of their plan year. For calendar year plans, that deadline is **March 1, 2019**. The disclosure indicates whether the prescription drug coverage offered by the plan is creditable or non-creditable.

California: Highlights

Legislative Calendar: A few reminders about California’s legislative calendar. All bills signed by the governor in 2018 took effect **January 1, 2019**, unless by their terms they had an earlier or later effective date. The next important date to note is **February 22nd**—this is the last day for legislators to introduce new bills. A few more dates worth noting are **May 31** (the last day for bills to pass their house of origin), **September 13** (the last day for each house to pass bills before recess), and **October 13** (the last day for the governor to sign or veto bills).

2019 is the first year of a new 2-year legislative cycle. All bills introduced in 2017 and 2018 that did not pass the legislature have died, and we start re-numbering bills this year.

CalSavers: A while back, the California Legislature created the “CalSavers Retirement Savings Program” (Cal. Govt. Code §§ 100,000 – 100,050). Under this program, employers with 5 or more employees must either offer their employees an employer-sponsored retirement plan or enroll in CalSavers. (Government employers are exempt.) The deadlines to comply are:

Size of Business	Deadlines
Over 100 employees	June 30, 2020
Over 50 employees	June 30, 2021
5 or more employees	June 30, 2022

If an employer does not want to set up a retirement plan, the employer can register with CalSavers, provide CalSavers with a census of employees, and agree to transmit employees’ payroll contributions. No employer contributions are required. Employee contributions are deposited into a Roth IRA. The default contribution rate is 5% of pay. Employees can opt-out of CalSavers, or they can adjust the contribution rate.

Employers do not have to wait until the applicable compliance deadline to sign up. CalSavers will be open to employers beginning **July 1, 2019**.

More information is available at www.calsavers.com and

www.treasurer.ca.gov/scib/. The Employment Development Department (EDD) is required to produce an employee information packet and opt-out forms.

CalSavers is being challenged in the courts on ERISA preemption grounds. This is an important development to watch.

Old Bills, New Regulations: In prior years, we reported on some new legislation that required government departments to issue new regulations (specifically, the California Department of Insurance (CDI) and the Department of Managed Health Care (DMHC)). In this report, we are going to follow up on two of those mandates: S.B. 17 and A.B. 72.

Prescription Drug Transparency Reports (S.B. 17): In 2017, the legislature passed S.B. 17 (Ch. 603). As a result of S.B. 17, each year insurers and HMOs must report to either the CDI or the DMHC the 25 most frequently prescribed drugs, the 25 most costly drugs by total annual plan spending, and the 25 drugs with the highest year-over-year increase in total annual plan spending for individual and group coverage. The CDI and DMHC then compile the data and issue reports. These reports were

Continued on Page 26

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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
January 1, 2019*

Jeffrey Adams
Nicholas Garnett
Ernesto Gonzalez
Michael Hanney
Cindy Xie

**WELCOME NEW
MEMBERS!**

*Pending Renewals—Please renew your
membership soon!*

Fabian Carillo
Alan Ewalt
Joann Freeman
Wendy Guffre
Joseph Halder
Sheri Huff
Richard Martin
Margaret McComb
Michael McCormick
Stephanie Nguyen
Cynthia Kim
Arlene Sanchez
Ronald Sellers
Robert Semrow
Wickham Smith
Jane Smith
Scott St. Clair
Eric Swanson

*New Members Recruited at OCAHU Business
Development Summit 2019*

- 1.) Samuel Arciniega / Branch Network Insurance
- 2.) Joelle Bart / SKS Insurance Agency Inc.
- 3.) Olly Beloro / Kaiser Permanente
- 4.) Adam Bowermaster / Bowermaster & Associates
- 5.) David L. Brown / AGA
- 6.) Ruben Caballero
- 7.) David Drzymkowski / Lively HSA
- 8.) Jay Gort / InfoArmor
- 9.) John Hansbrough / The LBL Group
- 10.) Steven L. Harriman / Filice
- 11.) Nori Nishida / Alliance 360 Insurance Solutions
- 12.) Tommie K. Hutton / Coastal Partners Insurance Services
- 13.) Sonia Jensen / Sonia Jensen Insurance Agency
- 14.) Eunice Lee / Kaiser Permanente
- 15.) Sumaly Limson / Kaiser Permanente
- 16.) Kimberly A. Loe / Church West Insurance
- 17.) Matthew McGuirk / LBL Acrisure
- 18.) Vancessa C. Monarrez / Health Net
- 19.) Grant W. Moulden / LISI
- 20.) Tara L. Perez / OneDigital
- 21.) Dari Rachedi / Selective Insurance Services
- 22.) Karen A. Rochefort / Grubbs Insurance Agency
- 23.) Robert Sanchez / Robert Does Insurance
- 24.) Daniel Saucedo / Saucedo Insurance

THANK YOU!

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OCAHU BDS—More Photos!



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More OCAHU Event Photos!



Right: Marilyn Monahan, Esq., Monahan Law Office, Presents at our Consumer Education Day in January, 2019



Left: Maryann Trutanich, Juan Lopez, Nick Garnett, Dave Benson at Cap Conference

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More BDS Photos!



OCAHU'S 17TH ANNUAL CELEBRATION OF WOMEN IN BUSINESS



JUNE 7, 2019
BALBOA BAY RESORT



Single Payer Update, continued from page 17

wards universal coverage, not single payer.” We should actively “support legislation that improves access for ALL Californians and continue efforts to improve transparency and reduce costs.”

“The best thing that all of us can do is to become a member, and if one already, be sure to renew your membership, start or increase contributions to CAHU PAC, and sign up for and participate in CAHU voter-voice efforts and Adopt-A-Leg programs,” said Dave Fear, Jr.

Overall, the main thing is that we believe “Our industry is alive and well,” said Dave Fear, Jr. “Medicare-For-All is a more realistic approach, but it is still a ways off in the future, if at all, and a more favored approach than true single-payer models like SB 562, both in the state and nationally. *If Medicare-for-All does become a reality, agents have been a huge part of a robust Medicare market and would be essentially applying the model more broadly.*”

Another thing you can all do, which is something that is inexpensive and fun, is to join us on Thursday, March 14th at JT Schmids in Anaheim, starting at 5 pm, for the OCAHU March Sports Trifecta, which is a fund-raiser for CAHU PAC, to help us raise money to fight single payer and other negative legislation in California! See the ad for this on page 6, and register now! ##





Membership Has Its “Awards”

By: Sarah Knapp, OCAHU Awards/Historian

LPRT

The **Leading Producers Round Table** was formed by NAHU in 1942 to recognize the successful underwriters of Accident & Health Insurance. Today, the LPRT committee is committed to making LPRT the premier program for top Health, Disability, Long Term Care and Worksite Marketing Insurance producers, carrier reps, carrier management and general agency/agency managers.

As the saying goes, “membership has its rewards” and as a member of the Leading Producer’s Round Table (LRPT), you will have the recognition of your peers for being one of the top performers in our business. LPRT members also receive discounts on many NAHU services and meetings. There are exclusive LPRT-only events held as well.

The qualification categories are:

Personal Production: Business written by a single producer.

Carrier Representatives: An employee of an insurance carrier working with producers.

Agency: Management of a general agency or agency.

Carrier Management: Carrier/home office sales managers, directors of sales and vice president sales

Visit NAHU.org click on Resources > “Promote Yourself” > LPRT for more information on how you can qualify for this exclusive membership.

TRIPLE CROWN AWARD

Another **AWARD** through NAHU is the **President’s Triple Crown Programs**. The program was created to recognize those members whose individual contributions to NAHU help advance the association’s mission. Like any Triple Crown, it recognizes accomplishment in three key areas. To qualify for the Triple Crown, within a calendar year a member must cover the following areas:

HUPAC: Participate in the \$10 x 12 draft program or contribute \$150 total. This is a separate from your CAHU PAC contribution.

Membership: Recruit at least two new members.

Advocacy: Use Operation Shout to send at least three messages.

That’s it. It’s as simple as 1, 2, 3! To find out more about the President’s Triple Crown Program, visit NAHU.org click Resources > Promote Yourself> Media Tools> Triple Crown Template

REBC

Earning the **Registered Employee Benefits Consultant®** (REBC®) designation elevates your credibility as a professional. The field of employee benefits continues to evolve rapidly. To best serve their clients, professionals need to have a current understanding of the requirements, benefits, and restrictions associated with each type of benefit or program as a method for meeting economic security. The designation program analyzes group benefits with respect to the ACA environment, contract provisions, marketing, underwriting, rate making, plan design, cost containment, and alternative funding methods. The largest portion of this course is devoted to group medical expense plans that are a major concern to employers, as well as to employees. The remainder of course requirements include electives on topics serving various markets based on a broker’s client needs

To find out more visit NAHU.org click on “Professional Development” then “Registered Employee Benefits Consultant.”

##



OCAHU's Business Development Summit 2019 —A Huge Success!

By: MaryAnn Trutanich, President Elect

On February 8, 2019, we hosted our annual Business Development Summit, or BDS, at the Hyatt Regency Newport Beach.

I'd like to thank all our Sponsor Partners; Word & Brown, Warner Pacific, SBS Payroll, OSCAR, Monarch Health, Heal, Ease Central, Dickerson Employee Benefits, Covered California, Competitive Health, Blue Shield, Anthem, HealthNet, Beam Dental, California Broker Magazine and BenefitMall; our Exhibitors, the BDS Committee members and all the volunteers who helped make the 2019 Business Development Summit a huge success.

We're happy to report that our BDS was sold out for exhibitors a few weeks in advance, and we sold out for attendees (at 355) the week before the event! A great problem to have, we had to ask our board members to please be sure to allow attendees to be seated first during the lunch program to accommodate any walk-in registrations! We apologize if the exhibit hall was a little bit tight, but all of us made the best of it, and we're very pleased at the overwhelming response!

A special thank you to our Executive Director Gail James Clarke. Thank you for all our presenters and speakers. We changed things up this year by having it on a Friday and hosting a Happy Hour. Look out for a survey to hear from you, our members, what your thought and how we can improve for next year. ##



Thank you, everyone, for a great BDS!!!



Top left: Janet Trautwein; Top middle: MaryAnn Trutanich; Top Right: Exhibitors and attendees. Bottom left: volunteers for BDS; Bottom Right: Juan Lopez and a great session selfie!

recently issued for calendar year 2017, and are posted on the CDI and DMHC websites.

New Regulations for Determining Average Contracted Rate for Medical Services (A.B. 72): In 2016, the legislature passed A.B. 72 (Ch. 492). A.B. 72 is designed to prohibit “surprise” medical bills, which may come about when a participant goes to an in-network facility but is treated by an out-of-network provider. A.B. 72 also required the CDI and DMHC to each establish a methodology to be used to determine the rate to be paid by an insurer or HMO to an out-of-network provider at in-network facility. Regulations describing these methodologies were drafted and approved, and they went into effect January 1, 2019.

Dynamex: The California Supreme Court’s decision in *Dynamex Operations West, Inc. v. Superior Court* (April 30, 2018) has generated a lot of interest and commentary. *Dynamex* creates a new test—the ABC test—for determining whether an individual is an independent contractor—rather than a common law employee—for wage and hour purposes (see C.O.I.N., June-July 2018). In Sacramento, *Dynamex* has also resulted in the introduction of a number of bills, including A.B. 233 (which would exempt insurance licensees who meet certain requirements from the ABC test), A.B. 5 (which would codify *Dynamex*), and A.B. 71 (which would toss out *Dynamex* and revert to the old standard). This is a topic to keep our eye on.

Municipalities: Highlights

San Francisco: Health Care Security Ordinance

(HCSO): The HCSO requires covered employers to submit the Employer Annual Reporting Form by **April 30** each year or face penalties of up to \$500 per quarter. The 2018 form will be available on-line by April 1, 2019.



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Brokers Making A Difference

By Sarah Knapp

OCAHU Awards/Historian

“Our Goal is to help all individuals and employers find appropriate health insurance at an affordable cost”

The Brokers Making a Difference website is designed to inform consumers, legislators and the media about the tireless work agents and brokers do in guiding their clients through the complex task of complying with numerous state and federal regulations while choosing and maintaining appropriate coverage at an affordable price. The website includes an interactive map where people can view specific examples of how brokers help their clients and gain a better understanding of the broker’s role as an advocate and educator. This website highlights the vital role of benefit specialists in the health care industry and the value they bring to their clients throughout the year.

Visit: www.brokersmakingadifference.org

The website includes links for:

- Workplace Health Insurance
- Individual and Family Health Insurance
- Medicare

##

Compliance Corner Legal Briefs Cont.

San Francisco: Fair Chance Ordinance (FCO): The FCO also requires covered employers to submit the Employer Annual Reporting Form by **April 30** each year. The 2018 Employer Annual Reporting Form will be available on-line by April 1, 2019. ##

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. ##



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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:

March 12, 2019, 3-Hour CE: Ethics, Hyatt Regency, John Wayne Airport, 4545 MacArthur Blvd., Newport Beach, CA, **Joe Navarro**, Warner Pacific. CE Course Number 304799. *Note extended hours. Registration 10:30; Program 11-2:30.* See ad page 8.

March 14, 2019, OCAHU PAC Fundraiser Event; Sports Watching Trifecta, JT Schmids Anaheim, 5 pm. See ad page 6.

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

May 14, 2019, OCAHU Board Installation, Annual Membership Meeting, CE with David Fear, Jr. (more information to follow), Hyatt Regency, John Wayne Airport, 4545 MacArthur Blvd., Newport Beach, CA.

June 7, 2019, Women in Business, Balboa Bay Resort, Benefiting New Hope Grief Support (see ad page 23)