

Orange  
County Association of  
Health  
Underwriters

Volume 13, Issue 6  
May/June 2019



**Orange County Insurance News**

COUNTY OF ORANGE INSURANCE NEWS



***What A Summer To Look Forward To!***  
***See Inside for Women In Business and Senior Summit Info!***

***OCAHU Hosts First  
Sports Triecta -  
CAHU PAC Happy Hour  
Fundraiser!  
A Huge Success!***

***Feature Article:***

***How to Help An Employer  
Client Select a Qualified  
Administrator***

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

***See page 5***

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- Compliance Corner—*Legal Briefing; Privacy & Security Updates and Enforcement*
- Legislative Update: *Preparing for Capitol Summit 2019*
- Membership News; New Members
- OCAHU March Trifecta Photo Coverage
- OCAHU Charity Golf Tournament Photo Coverage
- CAHU Capitol Summit 2019 Announcement
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***Golf Tournament Photo Coverage Inside!***



***Preparing for 2019  
Capitol Summit:  
Legislative Update  
with Bill Review  
Inside This Issue***



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**Would you like to be more involved?**

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

## **OCAHU May Meeting**

**Tuesday, May 14, 2019**

***Dave Fear, Jr, CAHU President—What is CAHU Doing for Me?***

***& Annual Election of Officers/  
Member Recognition***

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***Coming Soon!***

***Two Big Summer Events!***

***Women In Business - See Page 6***

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**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

Greetings OCAHU members. This is my last President's Report, so I wanted to reach out once again and say thank you to all of the OCAHU Board

Looking forward to the next board year means welcoming in our incoming President-Elect, Maryann Trutanich, who will take over as OCAHU President on July 1st. I have no doubt that I'm leaving this position in great hands, as you all saw what a power-house she was coordinating the 2019 Business Development Summit and everything else she had a hand in.

MaryAnn has recruited a new board of directors for the 2019-2020 board year. Please watch them get inducted on May 14 at the annual meeting. The next issue of the COIN (the July-August issue) will feature the new board members, so please reach out to them.

I will remain on the board for the 2019-2020 year as Immediate Past President, so although this is my last Letter from the President, I will remain serving the Association.

Once again, thank you for your support, thank you for your attendance, thank you for your charitable donations and PAC/HUPAC donations, and keep up all of the good work in 2019-2020!

##

Members for all of their help this past year. We accomplished so much this year, and you are largely responsible for this.. So for all of your efforts, I thank you from the bottom of my heart.

Looking back over this past year, OCAHU was the winner of many awards at the CAHU and NAHU level, including the Pace-setter Award, Newsletter Award, Flood Award, Distinguished Service Awards, and so much more. But we don't do all of this for awards. We work hard in our Association to protect our industry and our livelihoods. Being a member means that you're part of a large group which is fighting for our interests, meeting great people to network with and learn from and teach, and overall, serving our consumer customers.

Over the past year, we've had an extremely successful Women In Business Event, Business Development Summit, Medicare Summit and excellent speakers and presentations throughout the year. We've offered continuing education credits, NAHU certifications and more. We had a successful PAC Fundraiser in March, the Sports Trifecta in Anaheim, and our communications to our members has been strong and meaningful.

## OCAHU Hosts PAC Sports Trifecta Event, March, 2019 *(More Photos Page 9)*



*Fun,  
sports,  
network-  
ing, and  
raising  
money  
for PAC!*

*All is  
well!*



*OCAHU Members and guests enjoy this special PAC fundraising social event, raising approx. \$2,500!*





## ***Feature Article: How to Help An Employer Client Select a Qualified Administrator***

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

**OCAHU V.P. Communications & Public Affairs**

Since the OCAHU Business Development Summit in February, 2019, when I did a CE class for agents on Self-Funding, I have been asked by numerous brokers about claims administrators and how they should evaluate them. Because the number of questions on this topic was memorable, I decided to write this feature article on this, to give agents some helpful hints on evaluating administrators.

Whether you need to find an administrator to do just COBRA administration, or just Cafeteria Plan administration, or just a self-funded dental or vision plan, or other stand-alone ancillary product, to bill for multiple products, or whether you need an administrator to do all claims processing and other administrative functions for your client, employers are relying on their brokers/agents to assist them in making these decisions. They want information to make comparisons... They want a starting point, a mid-point to evaluate, and finally, a recommendation. So how, exactly, do you do that?

I've had a few brokers tell me that they are doing or are thinking of doing a lot of the administrative functions, such as billings and eligibility, for the employer. I want to caution you... California requires an administrative license before you can perform certain administrative functions. You do not want to be in a position of acting as an administrator without a license. And even if you had such license, you are also required to carry errors & omissions coverage for those administrative functions... and to get it, you need experience. So, I advise you to consult with your legal counsel before trying to take on those functions that could get you into trouble. (Incidentally, Marilyn Monahan, who does the Legal Briefs each issue for the COIN in the Compliance Corner, could certainly assist you if you don't have a qualified attorney to assist you – but of course I am not endorsing anything on behalf of OCAHU... I'm just pointing out that she is one of many qualified attorneys in this field).

As a former executive in a third-party administration operation, and as a broker specializing in self-funding ever since, I wanted to share some insights about how to start, how to evaluate, and of course, how to make recommendations. The decision, of course, is ultimately the employer's, but it's our responsibility and obligation to help them get to the point where they can.

First off, it's important that you look at more than one option. Employers want choices, and recommendations as to why one may be better suited for them than the next.

Next, you need to compile a list of prospective administrators. This can include ASO providers/carriers, if the employer wants to see those as well. However, keep in mind, they generally are less flexible and tie networks, UR/Case Management and perhaps even stop loss to their own carrier, which in my opinion, can sometimes be construed as a conflict of interest. Again, that is my personal opinion, and not that of OCAHU. But if they want to see that option, you are obligated to show it.

To help compile the list of prospective administrators, you can use the resources of organizations such as the Phia Group, the Self-Insurance Institute of America, the Health Care Administrator's Association, or even the California Department of Insurance. They often have lists of administrators on their websites. You can also ask experts in the field for recommendations. That is usually the best way, I've found, to find a good administrator.

Next, you want to narrow down the search to a manageable number of entities to request information from. But what do you ask for? How do you compare them? That is quite a process in itself, and usually takes a few months if you haven't done it previously.

There are basic questions you need to ask and gather information on... Like ownership, locations, types of staff, expertise in-house (such as a nurse or medical professional to help with chronic claims and assist in stop loss placement and negotiations at renewal following a large claim in a self-funded group), affiliations, whether they were recently acquired or are currently involved in a merger (claims system merges are the worst), how often they've had claims system upgrades and when was the last one completed, name changes or DBAs (you want to know all names so you can do searches to see if perhaps they changed a name due to a lawsuit or related situation), whether they sell direct, work

***Continued on Page 7***



# CRUISIN' FOR HOPE

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Presented by Orange County Association of Health Underwriters



### Feature Article, Continued from page 5

exclusively with brokers, or a combination of both, how many clients they have, how long they've been in business, what type of software they use... is it leased or purchased? Do they have the ability to program for custom reports, or is it a long and expensive process if your client wants something special? You want to know about their data recovery plan in the event of a natural disaster or other situation that could wipe out their data... You want to know if they're HIPAA compliant, and just how secure they really are. You should check with HHS/OCR to see if they've had a HIPAA Privacy or Security Breach.

Honestly, I could write pages on what to look for and ask, and it's all important, but I don't have the space in this article. I will suggest, if you're looking for an administrator, the Self-Insurance Institute of America has the best TPA questionnaire that I've seen. And it's become standardized, so most TPAs already have it completed, and just update it annually or when changes occur. That makes it easier to get the data from them quickly and easily. But then the process begins... The hard part... Comparing the administrators. You may not have the expertise to do so, so I'd recommend you start with a spread sheet on the basic differences, then bring in a qualified expert to help you create a workable comparison for your client and you to evaluate.

I asked MaryAnn Wessel, Vice President, New Business Development, from EBA&M, a third-party administrator in Irvine, CA, what she felt the most important things a broker should be asking and looking for... "Two of the most important questions to ask is how experienced is the TPA's staff in all areas - not just Account Management, and how many layers does one have to go through to get resolution if there are issues, or if assistance is needed for special requests. "

The "layers" she is referring to are the situations where TPAs that are often owned by large insurance companies or large national TPAs and the multiple layers of management one may have to get through to get a resolution. Sometimes this can substantially add to the time it takes to get answers or get a problem resolved.

Sometimes smaller can be better. You can get directly to the decision-makers easier. When working with a 900-pound gorilla, such as a large national carrier or administrator, you may never actually see face-to-face the powers that be. Personally, I prefer being able to walk in, talk to who I want to talk to; the person or persons I need to and get a quick resolution. I also always insist on taking a tour and meeting the folks that would be working directly with your client. I also, personally, avoid

companies that have a customer service que. I don't like the "next available representative" thing when it comes to complicated claims situations. I like personal service and assigned reps.

Most importantly, do your homework, and listen to what your client wants and needs. ##

*Editor and Author's Note: The views contained herein are the views of the author, and not those of OCAHU, CAHU or NAHU. The author always recommends the use of qualified legal counsel for legal recommendations. She is not an attorney and does NOT provide any legal advice, and this should not be construed as such.*

### Golf Tournament Ladies Rock!



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## CAHU First Annual Women's Conference, Las Vegas, NV

**Spring 2019 & PAC Sports Trifecta Fundraiser Photos**

*Left: OCAHU Board Members Maggie Stedt and Pat Stiffer attend the CAHU Women's Conference; Below Right: Ryan Dorigan awards silent auction prize at PAC Sports Trifecta.*



## CAPITOL SUMMIT

**May 20 - 22 • Sacramento, CA**

Join us in May to hear from Insurance Commissioner Ricardo Lara, Deputy Cabinet Chief Richard Figueroa and Tech Entrepreneur Tyson McDowell, legislative updates and more!



## Vital News for Agents!



## CAHU Legislative Victory!

### CAHU & Dynamex - An Update for Agents

Last August CAHU made our members aware of a California Supreme Court ruling, *Dynamex Operations West Inc. v. Superior Court (Dynamex)* that could require many 1099 independent contractors to become W-2 employees.

Dynamex created a new worker classification standard referred to as the "ABC Test," to determine whether a worker is an independent contractor or an employee. Under this new rigid "ABC test," EVERY person will be considered an independent contractor only if the hiring entity can PROVE ALL THREE of the following:

- (A) That the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact;
- (B) That the worker performs work that is outside the usual course of the hiring entity's business; and,
- (C) That the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

This past week, proposed legislation [AB 5 \(Gonzalez\)](#) was amended to exempt agents from the rigid ABC test created by the California Supreme Court's Ruling on Dynamex, which could have required many 1099 independent contractors, including agents, to become W-2 employees.

Without this clarification, many agents could have been forced to forgo their independent status. This would have negatively impacted agents and brokers by restricting commissions and the ability to work independently while impacting existing tax reporting and deductions.

CAHU was proud to partner with our agent allies, IIBACal and NAIFA to ensure this critical change was made to existing law. For more information on this bill and others that are important to CAHU members, please visit our website at [CAHU.org](http://CAHU.org). ##

California Association of Health Underwriters | 2520 Venture Oaks Way, Suite 150, Sacramento, CA 95833

#### More PAC Sports Trifecta Photos



Top left; John Evangelisa, Dan Abrams & Ryan Dorigan; Top Right Dorothy Cociu & Anne Kelly; Bottom Right Ryan Dorigan top bidder on Anaheim Ducks tickets in silent auction. Middle: Various OCAHU Members enjoying the night!

Thanks everyone for making this a huge success!





## Legislative Update: CAHU And California Advocates, Inc. Presents

### CAHU Top Priority Bills

*Preparing for Capitol Summit, 2019*

*As of April 11, 2019*

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

In place of the single payer update this issue, and to prepare any members who will be joining us at Capitol Summit in Sacramento May 20-22, I thought a legislative report overall on CAHU activity would be helpful. So please forgive me for not including the Single Payer Update in this issue. I promise it will return, as soon as there is news to report to you.

The CAHU Legislative Chairs and interested other CAHU and local chapter board members attended a Bill Review session this spring to discuss the priority bills that CAHU will be focusing in the coming months. The complete status report provided by CAHU is 11 pages in length, so I can't cover all of the bills in the limited space available in the COIN. Instead, we will focus on the top priority bills as of now, due to limited space (and because our brains generally can't handle too many bill details at once... at least mine can't!).

First is **AB 5 - (Gonzalez D) Worker Status: Independent Contractors**. *This bill is a high priority due to the Dynamex case* (see page 9). This bill would state the intent of the Legislature to codify the decision in the Dynamex case and clarify its application. The bill would provide that the factors of the "ABC" test be applied in order to determine the status of a worker as an employee or independent contractor for all provisions of the Labor Code, unless another definition or specification of employee" is provided. The bill would, according to CAHU, codify existing exemptions for specified professions that are not subject to wage orders of the Industrial Welfare Commission or the ruling in the Dynamex case. The bill would state that its provisions do not constitute a change in, but are declaratory of, existing law.

[CAHU is in support of AB 5.](#)

CAHU is in SUPPORT of AB5, which clarifies that a recent California Supreme Court ruling, *Dynamex Operations West Inc. v. Superior Court (Dynamex)*, does not alter an insurance agent or broker's ability to be an independent contractor. ***Without this clarification, many agents could be forced to become W-2 employees.*** *This would have negatively impacted agents and brokers by restricting commissions and the ability to work independently while impacting existing tax reporting and deductions.*

Next is **AB 651 - (Grayson D) Air Ambulance Services**. This bill would require a health care service plan contract or a health insurance policy issued, amended, or renewed on or after January 1, 2020, to provide that if an enrollee, insured, or subscriber (individual) receives covered services from a noncontracting air

ambulance provider, the individual shall pay no more than the same cost sharing that the individual would pay for the same covered services received from a contracting air ambulance provider, referred to as the in-network cost-sharing amount.

The bill would provide that an individual would not owe the noncontracting provider more than the in-network cost-sharing amount for services.

[CAHU is in support of AB 651.](#)

CAHU SUPPORTS AB 651 CAHU because our members provide ongoing service and support for clients to effectively adjust and utilize their healthcare coverage as medical necessity and coverage options change. Through these efforts, we see firsthand the importance for our clients to have clear coverage options, without the confusion and financial instability that balance billing creates, especially when it comes to exorbitant out-of-pocket costs for life saving treatment.

The third bill to discuss is **AB 1309- (Bauer-Kahan D)- Health care coverage: enrollment periods**. This bill would require a health care service plan and a health insurer, for policy years beginning on or after January 1, 2020, to provide a special enrollment period to allow individuals to enroll in individual health benefit plans through the Exchange from December 16 of the preceding calendar year, to January 31 of the benefit year, inclusive.

[CAHU is in support of this bill.](#)

CAHU SUPPORTS AB 1309, which helps agents by extending enrollment periods for 2020 under which people may purchase health insurance through Covered California and the individual insurance market.

Next is **AB 1611 - Emergency hospital services: Costs**.

*We also refer to this as the surprise bills or balance billing bill.* This bill would require a health care service plan contract or insurance policy issued, amended, or renewed on

***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:

### **Federal: Highlights**

**Medicare-for-All/Public Plan Options:** A number of proposals have been introduced in the Senate and the House that would create Medicare-for-all plans, or create public health options that would operate along-side current sources of coverage. Are you struggling to keep track of them all? Are your clients asking you to explain the differences in the proposals? The Kaiser Family Foundation has created a comparison tool that might help: <https://www.kff.org/interactive/compare-medicare-for-all-public-plan-proposals/>

**Department of Labor (DOL): Overtime Rule:** On March 22<sup>nd</sup>, the Wage and Hour Division of the DOL issued a proposed rule and request for comments on “Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees.” Written comments are due on or before **May 21, 2019**.

The proposed rule is intended to update and revise the regulations issued under the Fair Labor Standards Act (FLSA) implementing the exemption from minimum wage and overtime pay requirements for executive, administrative, professional, outside sales, and computer employees.

**Department of Labor (DOL): Overtime Rule:** On March 29<sup>th</sup>, the Wage and Hour Division issued a proposed rule and request for comments on the “Regular Rate under the Fair Labor Standards Act.” Written comments are due on or before **May 28, 2019**.

According to a Fact Sheet issued by the DOL, the proposed rule addresses whether certain “perks, benefits, or other miscellaneous payments” must be included in an employee’s “regular rate”—the regular rate is used to determine an employee’s overtime rate. Specifically, the proposed rule would establish, among other changes, that “the cost of providing wellness programs, onsite specialist treatment, gym access and fit-

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



Since the last issue, HHS extended the comment period for proposed rules to improve the interoperability of electronic health information by 30 days for two proposed regulations aimed at promoting the interoperability of health information technology (health IT) and enabling patients to electronically access their health information. The new deadline for the comment period submissions is June 3, 2019.

The extension of the public comment period coincides with a release by the HHS Office of the National Coordinator for Health Information Technology (ONC) of the second draft of the [Trusted Exchange Framework and Common Agreement](#), along with a related Notice of Funding Opportunity. HHS also today released a set of frequently asked questions (FAQs) from the Office for Civil Rights (OCR).

The FAQs address the Health Insurance Portability and Accountability Act (HIPAA) right of access as it relates to apps designated by individual patients and application programming interfaces (APIs) used by a healthcare provider’s electronic health record (EHR) system. The FAQs clarify that once protected health information has been shared with a third-party app, as directed by the individual, the HIPAA covered entity will not be liable under HIPAA for subsequent use or disclosure of electronic protected health information, provided the app developer is not itself a business associate of a covered entity or other business associate.

On February 11, 2019, HHS announced two proposed rules to support the seamless and secure access, exchange, and use of electronic health information (with *Federal Register* publication on March 4, 2019). The rules would increase choice and competition while fostering innovation that promotes patient electronic access to and control over their health information. Together the proposed rules address both technical and healthcare industry factors that create barriers to the interoperability of health information and limit a patient’s ability to access essential health information. Addressing those challenges will help to drive an interoperable health IT infrastructure across systems, enabling healthcare providers and patients to have access to health data when and where it is

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## OCAHU Members Visit Washington DC

*By David Benson, Incoming OCAHU V.P. Legislation*

Fifteen Orange County Association of Health Underwriters (OCAHU) members attended the National Association of Health Underwriters (NAHU) Capitol Conference in Washington DC February 25-27.

During the conference we attended general sessions and breakout sessions that prepared us for our meetings with Congressional Members that represent Orange County. Topics discussed during our sessions included a political analysis of the workings on Capitol Hill, NAHU's federal priorities, the Trump Administration's plan to reduce prescription drug costs, compliance issues, the economic policy on healthcare, Medicare for All, reducing healthcare costs and transparency and accountability in the healthcare marketplace. Some topics are more controversial than others. Speakers presented the different positions being discussed on each topic. The information we received prepared us for conversations with our Congressional Members.

We scheduled visits with the following Congressional offices: Katie Porter, Harley Rouda, Gil Cisneros, Lou Correa, Linda Sanchez, Alan Lowenthal and Mike Levin. Some meetings were with the Congressional Member, some were with Staff. Staff members provide the Congressional Member with detailed information on all topics discussed.

Our industry is very complex. As well intentioned as a Congressional Member might be in introducing new healthcare legislation or supporting or opposing a healthcare bill there is always unintended consequences to deal with. Our goal is to assist the Congressional Member in writing new healthcare legislation or asking the appropriate questions of the bill's author to avoid having unintended consequences.

We fully understand that NAHU's position and the Congressional Member's position will not always be the same. How many of you agree with your spouse, partner or significant other on every topic of conversation?

When we represent NAHU in legislative meetings in Washington DC or the District Office we always speak with one voice. We had over 800 NAHU members attending Capitol Conference. Our members met with Congressional Members and Senators from all 50 states. NAHU's legislative team prepares the talking points for the bills that were discussed. Prior to discussing any bills, we always spend time discussing the role of the agent. Most Congressional Members do not understand that we assist our clients with selecting a product, the enrollment process, the underwriting process, and providing ongoing customer service. We give examples of how we helped clients resolve complex claim issues and offer to assist constituents of the Congressional Member resolve their healthcare issues.

Through our OCAHU Adopt-A-Leg program we will continue building relationships with our Congressional Members by scheduling ongoing meetings in their District Office and attending their fundraising events. If you would like to participate in these meetings please call me at 310 215-1222.

I am pleased to announce that during the legislative awards ceremony ***OCAHU won the State Legislative Excellence Award for having an outstanding legislative program.*** ##

*Editor's Note: For complete NAHU Capitol Conference, see the March/April, 2019 issue of the COIN.*



Golf  
Tournament  
Photos



needed.

This extension responds to requests from a variety of stakeholders, including healthcare provider organizations and industry representatives. The Centers for Medicare & Medicaid Services (CMS) and ONC understand that both rules include a range of issues having major effects on healthcare. The extension of the public comment deadline will maximize the opportunity for meaningful input and further the overall objective to obtain public input on the proposed provisions to move the healthcare ecosystem in the direction of interoperability.

### **California Consumer Protection Act**

In the last issue of the COIN, I promised to highlight the provisions of the new California Privacy Law, the California Consumer Protection Act (herein referred to as CCPA) which is effective for the most part on January 1, 2020.

This new state law requires that the California Attorney General publish regulations between January 1, 2020 and July 2, 2020. The Attorney General under this law may not bring an enforcement action under the CCPA until the earlier of 6 months after the final regulations are published well in advance of July 1, 2020, so that they can fully prepare for implementation.

**Who has rights under the CCPA?** California residents, defined as any natural person “enjoying the benefit and protection of laws and government” of California who is in California “for other than a temporary or transitory purpose” of “domiciled” in California but “outside the State for a temporary or transitory purpose.”

**Businesses subject to CCPA are:** *For-profit* entities that both collect and process the personal information of California residents and do business in the state of California, and a physical presence in California is not a requirement. Simply making sales in the state would be sufficient to be subject to this law.

Businesses must meet at least one of the following criteria for the CCPA to apply: Businesses must generate annual gross revenue in excess of \$25 million; businesses must receive or share personal information of more than 50,000 California residents annually, or the business must derive at least 50% of its annual revenue by selling the personal information of California residents.

**The types of businesses subject to CCPA** are companies that generate revenue from targeted advertising over internet platforms, such as Facebook, Twitter, Google, will be the most impacted. This law threatens established business models throughout the digital sector. It could also extend to internet



## **EXPERTS IN HSA, FSA, HRA, COBRA, AND COMPLIANCE**

### **Contact**

**Jeff Strong or Dan Galletto**

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service providers such as AT&T and Verizon, which collect broadband activity data (web browsing data) and could attempt to use it to generate behavioral profiles to enable digital advertising.

The types of firms who stand to lose even more are data brokers such as Acxiom, Epsilon, Experian, and Oracle, for example, who generate profits by collecting quantities of data on individual consumers and selling it to third parties. These include ad networks, marketers, retailers, or any other type of interested businesses.

### **Personal Information Under the CCPA**

Personal information under the CCPA includes “information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household.”

***Continued on page 22***



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### More Golf Tournament Photos



*Special thanks to the event volunteers,  
sponsors and golfers!*



This Meeting Serves as OCAHU's 2019 Annual Meeting of the Membership.

For more information and to register visit [ocahu.org](http://ocahu.org)



Members JOIN US for Your Special Recognition!

Dave will bring us up to-date on CAHU's many activities to date including the legislative work CAHU is conducting on behalf of our members and our clients' interests.

## WHAT IS CAHU DOING FOR ME?

**Tuesday - May 14, 2019**

*Dave Fear Jr.*  
President  
California Association of  
Health Underwriters



Hyatt Regency John Wayne Airport | Newport Beach

We've disrupted  
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#### **Legislative Bill Update/Capitol Summit Prep, Continued from page 10**

or after January 1, 2020, to provide that if an enrollee or insured receives covered services from a noncontracting hospital, the enrollee or insured is prohibited from paying more than the same cost sharing that the enrollee or insured would pay for the same covered services received from a contracting hospital. The bill would require a health care service plan or insurer to pay a noncontracting hospital for emergency services rendered to an enrollee or insured pursuant to a specified formula, would require a noncontracting hospital to bill, collect, and make refunds in a specified manner, and would provide a dispute resolution procedure if any party is dissatisfied with payment.

CAHU supports this bill.

CAHU is in SUPPORT of AB 1611, which bans hospitals from sending surprise bills to patients for emergency room care beyond their regular co-payment or deductible. It also closes the loophole that leaves workers with self-insured or federally-regulated coverage through their job exposed to surprise bills.

This issue is also a popular topic on the hill in Washington, DC.

Next is **SB 260 - (Hurtado D) - Automatic Health Care Coverage Enrollment**. This bill would require the Exchange, beginning no later than July 1, 2020, to enroll an individual in the lowest cost silver plan or another plan, as specified, upon receiving the individual's electronic account from a county, or upon receiving information from the State Department of

**Continued on page 19**

ness classes, and employee discounts on retail goods and services may be excluded from an employee's regular rate of pay," and that "payments for unused paid leave, including paid sick leave," may also be excluded from an employee's regular rate of pay.

**Department of Labor (DOL): Joint Employers:** On April 1<sup>st</sup>, the Wage and Hour Division issued a proposed rule and request for comments on "Joint Employer Status under the Fair Labor Standards Act." Supplemental materials were issued at the same time, such as FAQs and examples. Written comments are due on or before **June 10**, 2019.

The DOL explains that, a "joint employer is any additional individual or entity who is jointly and severally liable with the employer for the employee's wages." If adopted, the new standard contained in the rule would apply only to determining joint employment status under the FLSA, and not other federal and state laws.

#### California: Highlights

**CalSavers:** Employers who do not already offer an employer-sponsored retirement plan and who have 5 or more employees may start participating in the "CalSavers Retirement Savings Program" beginning **July 1, 2019**. More information is available at [www.calsavers.com](http://www.calsavers.com) and [www.treasurer.ca.gov/scib/](http://www.treasurer.ca.gov/scib/).

CalSavers is being challenged in court on ERISA preemption grounds. *Howard Jarvis Taxpayers Assoc. v. The California Secure Choice Retirement Savings Program* (E.D. Cal.). On March 28<sup>th</sup>, the court entered an order granting the defendants' motion to dismiss. The court also, however, granted the plaintiffs "one final opportunity to amend" their complaint.

#### Municipalities: Highlights

**Department of Fair Employment and Housing (DFEH): Family Care and Medical Leave and Pregnancy Disability Leave:** The DFEH has updated its poster on the California Family Rights Act (CFRA), the New Parent Leave Act (NPLA), and Pregnancy Disability Leave (PDL). The updated poster—DFEH-100-21—must be posted starting **April 1**. A copy is available on the DFEH website: <https://www.dfeh.ca.gov/resources/posters-and-brochures-and-fact-sheets/>

**Employment Development Department (EDD): Paid Family Leave and California State Disability Insurance:** The EDD updated two brochures in March that employers are required to distribute to employees under specified circumstances. One brochure summarizes Paid Family Leave (DE 2511 Rev. 17) and one summarizes California State Disability Insurance Provisions (DE 1525 Rev. 66).

#### San Francisco: Health Care Security Ordinance (HCSO):

The HCSO requires covered employers to submit the Employer Annual Reporting Form by **April 30** each year. The 2018 Employer Annual Reporting Form is now available on-line: <https://sfgov.org/olse/health-care-security-ordinance-hcso>

**San Francisco: Fair Chance Ordinance (FCO):** The FCO requires covered employers to submit the Employer Annual Reporting Form by **April 30** each year. The 2018 Employer Annual Reporting Form is now available on-line.

**San Francisco: Minimum Wage (MWO):** The minimum wage in San Francisco will increase to \$15.59 on **July 1**. Beginning this year, the minimum wage rate in San Francisco will increase every July 1 based on increases in the Consumer Price Index. Employers must post an updated poster about the new minimum wage; the updated poster is already available on the Office of Labor Standards Enforcement website. [www.sfgov.org/olse/mwo](http://www.sfgov.org/olse/mwo)

**Municipalities: Minimum Wage:** In addition to San Francisco, a number of other municipalities will impose new minimum wage levels effective **July 1**, including Los Angeles (city and county), Santa Monica, Pasadena, and Malibu. Employers should check local government websites to see if they may have to raise wages and update their

*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 March 1, 2019*

Logan S. Ascher

John W. Austin

Charles Showalter

Robert A. Wojciechowski, CTC, ACB

**WELCOME NEW MEMBERS!**

*Getting Ready to Golf! OCAHU  
Golf Tournament, 2019*



*Legislative Update/Capitol Summit Prep continued from page 17*

Health Care Services regarding an individual terminated from department-administered health coverage. The bill would require enrollment to occur before Medi-Cal coverage or coverage administered by the State Department of Health Care Services is terminated, and would prohibit the premium due date from being sooner than the last day of the first month of enrollment.

[CAHU's official position on this bill is to WATCH.](#)

CAHU is WATCHING SB 260, which requires Covered California to enroll an individual or individuals who are determined ineligible for Medi-Cal in the lowest cost silver plan upon receipt of information from a county unless Covered California has information that another plan is more appropriate. The bill also requires a health plan or insurer to annually notify an enrollee, subscriber, policy holder, or certificate holder when they cease to be enrolled in coverage, their contact information will be provided to Covered California to assist them in obtaining other coverage, or that they may opt out of this transfer of information.

There are issues with the agent of origin on this bill. *CAHU will ask members who are visiting the author if they intend to recognize the original enrollment entity?*

I will be discussing one or two other bills that are on the top priorities list of CAHU in the HIPAA Privacy & Security Updates found on page 12.

In addition, I suggest that you visit the CAHU website and print the CAHU Top Priority Bill Status Report, which is updated frequently.

##

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## Political Action Committee - Sports Trifecta PAC Fundraiser

**By: Dan Abrams, OCAHU V.P PAC**

I would like to start off by thanking everyone for your contributions and participation in the recent Trifecta PAC event. We raised \$2,456 towards much needed funds for our State Lobbyist.

I'd also like to extend my gratitude to Dorothy Cociu for securing the venue at an outstanding price. The event was held at JT Schmid's Anaheim and the restaurant was incredible. Excellent food and service. Everyone seemed to enjoy themselves. Of course, thanks to all the donors for

our silent auction, and a special thanks to our sponsors! It was most entertaining to see Juan Lopez, John Evangelist, and Ryan Dorigan in an all-out bidding war. Overall, the event was a great time and an even greater success.

Let's keep growing funds so we can continue to fight for the rights of all life and health agents & Companies. Thanks for your support! ##

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#### **New Rights Given to Consumers by CCPA**

The CCPA provides consumers with more control over their personal information in four ways: *knowledge* (must notify what is being collected), *sale of personal information* (consumers must be presented with a simple process to opt-out of having personal information sold to a third party; businesses must post a DO NOT SELL MY PERSONAL INFORMATION link on its homepage for opting out), *personal information removal* (consumers may request that a business delete their personal information, and businesses must inform consumers they have this right; personal information must also be deleted from third-party contractors), and *service equality* (businesses cannot discriminate against a consumer who exercises his or her rights under CCPA; CCPA prevents a business from charging a consumer a fee because he or she exercised a right under the CCPA; businesses can offer consumers financial incentives to allow personal information to be collected).

#### **Disclosure Responsibilities of CCPA**

Entities subject to the CCPA must proactively explain their privacy notices when personal information is collected. They must also inform consumers of their rights under CCPA, categories of personal information collected, the ways that personal information is used, and the categories of personal information the business has sold to third parties in the last year.

Disclosures must be updated every 12 months.

In many ways, the CCPA disclosure responsibilities are similar to what our industry requires agents to do under the Graham-Leach Bliley (GLBA) Act, as well as Cal-GLBA.

#### **Private Right of Action**

CCPA provides consumers a private right of action if their personal information "is subject to an unauthorized access and exfiltration, theft, or disclosure as a result of the business' violation of the duty to implement and maintain reasonable security procedures and practices. Consumers can file individual or class action lawsuits, and can recover between \$100 and \$750 in statutory damages per incident, or actual damages. CCPA allows consumers to seek injunctive and other forms of relief, and sets out different procedures for actions seeking actual versus statutory damages.

#### **Penalties for Non-Compliance**

Civil penalties under the CCPA can be fined up to \$2,500 per violation and \$7,500 per intentional violation. Once notified of a violation by the Attorney General, companies have 30 days to come into compliance in order to avoid penalties. The data breach occurrence information here is unclear at this time.

#### **Preparation**

Although we expect additional amendments, businesses that are subject to the CCPA should still start to prepare for their compliance. Privacy notices, Policies and Procedures, and websites should be updated before the effective date. In addition, businesses should start mapping the personal information they collect and locations where personal information is stored so that they can promptly meet the requests under the CCPA.

#### **Pending Bills Related to CCPA and Other Related Privacy Matters**

In the Legislative Updates Column found on page 10, I had mentioned that I would discuss some additional bills CAHU is tracking in this column.

Please refer to **AB 981 (Daly D) - Insurance Information & Privacy Protection Act** - This bill would exempt insurance institutions, agents, and support organizations to which the Insurance Information and Privacy Protection Act applies from the California Consumer Privacy Act of 2018, except as specified.

#### **CAHU Supports this bill.**

CAHU SUPPORTS AB 981 (Daly), which amends the Insurance Information and Privacy Protection Act (IIPPA) to make it clear that entities governed by the IIPPA are not subject to the California Consumer Privacy Act of 2018 (CCPA).

This will ensure continued consumer protection while avoiding different and conflicting standards which may work counter to the best privacy and security protection for consumers. If there are additional consumer protections needed beyond those provided in the IIPPA, a much better solution would be to clarify such issues in the IIPA.

Trying to reconcile the CCPA with a long standing and well-vetted insurance-specific law will result in foreseeable legal conflicts, and jeopardize the critical balance achieved in current privacy and security laws applicable to and strongly supported by insurers.

I also wanted to mention one more pending bill on the



## OCAHU Golf Tournament Photos 2019

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From the volunteers to the golf-  
ers, and everyone else involved.  
Thank you all!*



## OCAHU 2018 Annual Report

### ***Income***

Dues	\$12,072
Corporate Sponsorships	\$36,535
Monthly Meeting Registration	\$10,571
Continuing Education Day	\$5,634
Business Development Summit	\$53,110
Senior Summit	\$122,407
PAC Contributions	\$3,742
Charitable Events	\$143,230
COIN Newsletter Advertisements	\$1,250
Miscellaneous Income	\$350
Interest Income	\$70
<b><i>Total Income</i></b>	<b><i>\$388,971</i></b>

### ***Cost of Sales***

Monthly Meetings	\$17,370
Charitable Contributions	\$142,203
Continuing Education Day	\$7,219
Business Development Summit	\$45,848
Senior Summit	\$117,382
<b><i>Total Cost of Sales</i></b>	<b><i>\$330,002</i></b>

### ***Expenses***

OCAHU Administration / General Chapter Management	\$39,241
Membership & Recruitment	\$3,218
Legislative Activities	\$22,005
Conferences / Education	\$12,045
<b><i>Total Expenses</i></b>	<b><i>\$76,509</i></b>



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worksite posters. ##

*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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CAHU Priority Bills list, as it relates to privacy laws... **SB 441 (Galgiani D) Electronic Health Records: Vendors.** This bill would enact the California Interoperability Enforcement Act to regulate electronic health record vendors operating in California. The bill would require the Office of Health Information Integrity to review federal law and policy for opportunities to regulate electronic health record vendors and to establish an interoperability enforcement structure. The bill would require the office to promulgate regulations for this purpose. The bill would establish a Complaint and Technical Assistance Division within the office and the Interoperability Enforcement Fund, which would be available, upon appropriation, to fund the administration of these provisions.

CAHU supports SB 441.

CAHU SUPPORTS SB 441 which would help insure the ability of health care providers to quickly and appropriately access health related information across different health care settings. We believe this would limit excessive charging and opportunistic pricing that hinders a health care providers ability to clearly and efficiently exchanging information pertaining to our clients health. ##

*CCPA References:* SB 1121 bill text; "What You Need to Know About California's New Data Privacy Law," Dipayan Ghosh, July 11, 2018; "California Passes Strictest Online Privacy Law in the Country the Country," By Heather Kelly, CNN, June 29, 2018; "The California Consumer Privacy Act: What You Need to Know," by Mark McCaery, December 1, 2019, [New Jersey Law Journal](#).

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**SCHEDULE OF EVENTS:**

**May 14, 2019, OCAHU Board Installation, Annual Membership Meeting, Member Recognition & Officer Elections, with David Fear, Jr.,** Hyatt Regency, John Wayne Airport, 4545 MacArthur Blvd., Newport Beach, CA. See ad page 16.

**June 7, 2019, Women in Business, Luncheon & Fashion Show,** Balboa Bay Resort, 1221 W. Coast Hwy, Newport Beach, CA, Benefiting New Hope Grief Support. **THIS EVENT IS SOLD OUT!**

**August 28 & 29, 2019, Senior Summit,** Pechanga Resort & Casino, Temecula, CA. See ad page 25.