

California's Insurance Industry Fight of the Decade....

What SB-562 Can Do to Our State, Our Industry, and the People of California!

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So we thought we were on a "Wait and See" train since last issue... The Repeal and Replace the ACA efforts of the Trump Administration failed (although as of the time of this writing, another try is looming), and most of us thought we could sit back and take a breather from politics and the protection of our clients' best interests for a while... So while we were sighing in relief, the politicians in Sacramento had another idea... *Let's ram something like a Single Payer bill through now, without the voice of the people of California* (like the 12 cent gas tax but much, much worse!), *and do it quickly before anyone notices!* Or was that just my idea of what's going on?

First, I guess that I should start with saying that comments made in this article are those of the article's author (yours truly) and not necessarily those of OCAHU or CAHU. *Does that protect everyone enough (for those of you that get nervous when I cause a ruckus!)?* Second, I will say that although I will express my personal opinions, I am also giving full credence to the CAHU fight, and I'm doing this re-write of my feature article (yes, I scrapped my original feature article planned for this issue at literally the 11th hour and decided, upon receiving the one-page NO on SB-562 document OCAHU sent out on April 25th, to react to my impulses... To help fight this fight, even if it means dumping a nearly finished issue and renaming the issue the "Fight the Fight – Say No to SB-562 Issue" and go on a rampage!), because I was inspired to do more than simply sending out the emails to my legislators with CAHU's operation shout system... I wanted to make a personal plea, for whatever it's worth, to our members, to get as passionate about this as Rob Semrow and Ryan Dorigan have been for months, and help them in educating our members... Perhaps my little feature article will have some impact? ***Hopefully some of you will read it and react!***

You may have listened to Juli Broyles (CAHU lobbyist) when she spoke at OCAHU in March... And to Rob Semrow and Ryan Dorigan at monthly meetings or read their articles about SB-562, so you may know a little about this bill... My intent is to dig more into it and help you get more passionate, more involved in helping stop this from happening! ***I am pleading with you to join us in saying "Not in our state!"***

Senators Ricardo Lara (D), 33rd District (and running for Insurance Commissioner in 2018), and Toni Atkins (D), 39th District (former Assembly Speaker) are jointly authoring what could be the most devastating piece of legislation our state and our industry has seen. I talk about the Fight of the Decade, but in all reality, it could be a much longer time-period... We've had attempts before... The ballot proposition 186 (defeated by 2/3 margin), and since then, a single payer bill has been introduced in nearly every legislative session since as early as 1994! But this one has the political clout to perhaps go further... Which is why we should be *very nervous!*

It is important to keep in mind that this bill is anything but bi-partisan. It is, in fact, supported by 100% Democrats, and ZERO Republicans. Insurance Commissioner Dave Jones is a supporter of Single Payer, incidentally, but has not yet officially taken a position on this bill. The goal of SB-562, according to Lara and Atkins, is "SB-562 will establish a state based universal health care system and provide comprehensive health care coverage to every Californian."

Interestingly, the bill states that it "does not preempt any city, county, or city and county from adopting additional health care coverage for residents in that city, county, or city and county that provides more protections and benefits to California residents than" SB-562. ***Isn't that fitting? Politicians can put this in, but allow their city or county to offer a better plan, and enroll themselves in that, but allow the rest of the state residents to be stuck in a***

single payer plan! I guess we can all think about moving to one of those cities or counties worst case scenario.... (Or Nevada or Arizona???)

According to the authors, SB-562 (The Healthy California Act) states that the problem is that “lack of insurance still plagues immigrant communities, rural California, working families and young people...” They go on to say that “roughly 2.9 million residents (of California) remain uninsured....Many others are undocumented and prohibited from receiving subsidies or even purchasing insurance through the exchange.” Their solution, according to SB-562, is “SB-562 will move health care coverage to one publicly-run plan that covers everyone who lives in the State. Every California resident will have one plan and the ability to choose their provider.” The sponsors say that patients can pick their providers, with no more surprise out-of-network bills... that clinicians will make decisions about care, and not computers... that all of the insurance company waste is cut from the system, and by pooling funds in a publicly-run fund we can get the bargaining power of the seventh largest economy in the world.. And there is more... Hospitals can focus on providing care, not filing paperwork, there will be public oversight, and California can clamp down on out of control prescription drug costs. They say all the right things to try to get Californian’s to accept this idea without question, but we need to ask questions! We need to understand what CAHU and our partners are warning us about! *Let’s get away from the political rhetoric and let’s focus on the reality of the situation!*

Who is eligible for SB-562? Every resident in the state. Members would not be required to pay any fee, payment, or other charge, and a member shall not be required to pay any premium, co-payment, coinsurance, deductible, or any other form of cost sharing for the covered benefits.

What’s covered? “Covered health care benefits under the program include all medical care determined to be medically appropriate by the member’s health care provider.” It includes 34 covered items in the bill, including but not limited to inpatient and outpatient medical facilities and health provider medical services, diagnostic imaging, lab services, other diagnostic and evaluative services, medical equipment, prosthetics, vision and hearing services and items (such as eyeglasses and hearing aids), rehabilitative care, emergency care, emergency transportation, immunizations and preventive care, health and wellness education, hospice care, SNF care, home health and assisted living facility care, mental health services, substance abuse, RX drugs, podiatric care, chiropractic care, acupuncture, therapies, dialysis, ancillary services, case management care and coordination, and additional services.

According to Marilyn Monahan, attorney from Monahan Law Office in Marina Del Rey, CA, “Under SB-562, a health insurer or HMO may not offer benefits or cover services that are offered to individuals under the Healthy California program. **This provision will end group major medical coverage in California.**”

SB-562 abolishes the private health insurance market in California. It isn’t “free” ... there are plenty of costs! **The bill would eliminate employer-paid coverage, which is currently the only really strong, working model we have!** The employer based system has been successful. As I said in my last issue of the COIN (March/April 2017 feature article), you don’t want to eliminate the one thing, the only thing, that is working, and working well! **SB-562 would shift health costs to the employes and away from employers.** Statistics show that \$350 billion is currently being spent by employers, which is \$19,000 per worker, based on dividing the \$350 billion by the 18.2 million workers currently covered under employer-sponsored health care coverage.

I’d like to copy an important quote from the last issue of the COIN. “The employer-based system is the bedrock of our health insurance system,” stated Chris Hartmann (NAHU V.P. of Government Affairs in Washington, DC, who I’d interviewed for the last issue). “It’s the one thing that has been working, while the individual [market] has been wild. I know things are more stable here in California than the rest of the country. Other parts of the country we

see one carrier per county, premiums expanding at exponential rates. ...[The employer-based system is that stability. It needs to be reinforced , not undermined.](#)” I thought this was worth repeating...

Obviously, a bill such as SB-562 would **not only undermine the employer-based system, but eliminate it**. At least for fully-insured employers. Keep in mind that many health & life agents make the majority of their income from the employer-sponsored market. But I’m not just saying this to help agents. Employers like to offer coverage to their employees. It is a benefit that helps them recruit and retain a good and stable work force. Shifting the costs of health care to employees is not a favorable idea to most of us. But we need to inform our employer clients, friends, families, and anyone who will listen. We need to look at other groups that are in opposition to this bill (like perhaps the provider community; the doctors?), because the agent community alone will appear to only be looking at our own interests. What Sacramento doesn’t understand is, the well-being of our employer clients is why we do what we do... So if looking out for them is protecting our own interests, then I have to agree with them. But it’s so much more than that! Doctors can’t be happy with this scenario. We need to really work together to form great alliances on this issue, and time is of the essence. I have read in various news sources that the California Chamber of Commerce is also in opposition to this bill. **We need to be reaching out to all groups and join the grass-roots campaign to fight this battle!**

As a health agent and consultant who specializes in [self-funded health plans](#), my initial thought was, this bill can’t possibly eliminate self-funded health plans, as state laws can’t pre-empt ERISA, which regulates self-funded and other (such as Union) plans. However, upon further thoughts and research on this issue, I am discovering that although SB-562 could not eliminate the right to self-insure, the way it is written, which puts taxation on employees, SB-562 would basically make the interest in employer self-funding less viable. In other words, whether or not the employees were covered under a group self-funded health plan, they would still have to pay the state tax! I discussed this with Marilyn Monahan, and she commented as follows: “Employers will still be able to offer self-funded health benefit plans to their employees. However, if California-based employees are already covered by the no-cost Healthy California program, there will be less interest in such plans in the future.”

It is likely that this ERISA implication would be challenged in the court system. But let’s just hope it never gets there, and that this bill is defeated before it becomes law.

With the tax increases in a Single Payer program such as SB-562, who will have the highest tax percentage increase? I discussed this with Rob Semrow, OCAHU VP of Legislation, and we agreed that the **lowest paid workers would likely see the highest percentage of overall increase in cost**. “This is a great point and there is a lot of discussion about this as the projected numbers are staggering. If each person were to have to pay the projected tax amount, lower income families would be devastated financially. Lower and middle class families are already financially squeezed by a variety of taxes that make it difficult to thrive here in California. Additionally, if the monies are not collected from everyone (lower class included), it means that even more money will need to be taken from the middle and upper class to make up for the short fall. It is another tax that does not improve a current situation for those that will be required to pay for it.”

Supporters of SB-562 claim that there will be public oversight on costs and care under SB-562. Single payer turns control over to an unregulated government entity. CAHU believes (as do I and the OCAHU Board) that this will lead to a rationing of care. Should we have concerns about special interests? “Public oversight is a great catch phrase that rarely equates to what the ‘public’ believes it should be,” stated Rob Semrow. “It is a broad term meant to imply that this group that represents the public can have a real impact, but it is often a small group of appointees that provide a loose oversight and, in many cases, doesn’t have the power needed to affect real change and influence on the important matters they are charged with overseeing.” Obviously CAHU is concerned about

how this bill would turn control over to an unregulated government entity. It would be governed by an appointed board, and advised by various "consumer advocates", who will determine what is "affordable" and what is "essential." That could change year-to-year based on budgets and other issues. I personally have an issue with that type of oversight. Incidentally, health insurance agents, consultants, carriers and other "experts" would likely have no voice in this oversight.

History and a look at the rest of the world will show us that single payer systems are generally insufficient to cover the needs of their people, including Canada, where often citizens cross into the US to receive care, and pay for it themselves, to avoid rationing and the inability to receive needed testing and other care. Western Europe is now introducing supplemental programs to supplement their health care system (including some employer-provided options), and Japan has begun to introduce private supplements to the government program.

I grew up in Michigan, which is a border state to Canada. I watched many Canadians leave their homes in eastern Canada and cross the border into Michigan and other border states because someone in their family had a health condition, and they couldn't be seen before they would get sicker. They waited a year or more for an MRI or similar services in many areas. They couldn't receive basic tests that we get in any hospital or diagnostic center at a moment's notice. Ask any Canadian how well single payer systems work! Although they work well for routine situations, they are not effective for more serious medical conditions, due to the lack of providers and medical equipment. Most will have horror stories of a lack of care, or wait times of months, years, and many, many miles driven or flown to receive needed treatment, testing or surgeries. I personally grew up with Canadians who had moved to the U.S. specifically because a family member needed specific health care, and they chose not to wait for it, for fear of the condition worsening, or in some cases, even death.

You may have read that one of the SB-562 authors, Ricardo Lara, who reportedly recently made a trip to Canada to learn about their system, and he stated in an interview that his Canadian representatives acknowledged that their healthcare system isn't perfect, and that often wait times to see specialists were a legitimate concern. (LA Times, 4-26-17) In the United States, like it or not, we tend to be a bit impatient when it comes to what we want and need. Can you see the likes of celebrities or wealthy individuals being told they cannot receive the care they want for 10 months? I'm not a celebrity and I'm not a wealthy American, but I know I would not want to wait 10 months (or even two!) if I were told I were sick and needed a certain test or treatment. *Would you?*

CAHU has been doing webinars for agent members to educate them on this bill. I urge you (as does the entire OCAHU Board of Directors) to participate in the webinars to learn more. If you can't participate in the live webinars, view the posted recorded webinars.

If California had a single payer system, what would happen to the providers? Proponents of the bill say that all Californians will have their choice of medical providers, but we know that the reality is, many providers will be unwilling to accept the lower payments from a single payer and may likely close down or move to other states with more rewarding compensation! "This is one of the more obvious head scratchers," stated Rob Semrow. "If we just look at the current Medicare and Medi-Cal provider lists you can see that an increase in choice of providers is not likely. The doctors and hospitals would be financially stretched, and not in fact, the likely choices for providers as they appear to be. Take the contract offered by this new governmental system, move to a concierge cash-only model or leave the state and practice elsewhere. These are not great choices on an already taxed provider system that can ill afford to lose any providers in any practice area."

And for those who need health coverage, will there be an influx of uninsureds? Will they flock to California to get their health care needs paid for by taxpayers? *If you think the ACA has serious adverse selection issues, think about what this type of system would do!*

Yes, health care is expensive, and the uninsured is very much still a problem, but we all know that many uninsured are uninsured because they want to be uninsured. No matter how affordable we make it, there will always be those who simply won't sign up for coverage. But a taxed-based system is not the answer.

Keep in mind, SB-562 uproots the entire market, the entire system we use currently.

We have a working system in California. It's not perfect, but it's working. We have a very stable employer-sponsored health insurance market. We have self-insurance, which eliminates the profit of insurance companies, and allows employers to pay for the health insurance of their employees, and cut out the fat of the insurance companies. Self-funded employers don't pay for expensive TV or other advertising, which we all know isn't cheap.

How can California pay for such a system? No one has an answer to that, yet this bill is moving forward. On April 26, 2017, it passed the Health Senate Health Committee, which was its first hurdle.

In our conversation, I asked Rob if there is one single thing he would say to OCAHU agent members about SB-562, what would it be? " I would say that this is not just about an industry, it is about health care. That means that anyone that might need high quality medical care, and that will be most people, will be impacted. This will dramatically change not just the way health care is financed, but how and what it is delivered. This is not something that the legislature should be undertaking on their own. *They should, at a minimum, be letting the people vote on something that impacts every resident in the state of California.*"

CAHU believes that proponents of SB-562 have good intentions, but seem to forget that health care reform is not, by a long shot, finished in the U.S. Tearing down an entire market is not the answer.

Why is it that when the voters of our state are asked, by ballot or other measures, about whether they want a single payer in California, they say no, but the current legislature wants to vote on it in their four walls in Sacramento, and not risk going to a public vote? *Don't let them ram this through!* Our legislators are supposed to be voting for what the people want, not for their own interests, and yet, we see a bill like SB-562... (OK, I'll cool the rampage, but you get my point, I hope!)

Join us in the Fight of the Decade. Help defeat SB-562! We need you to post on your Facebook, Linked In, and other social media outlets. Speak against it at local events, churches, schools, chambers of commerce meetings...to anyone who will listen! But we need a consistent voice and message! Use the "No On SB-562" sheet that CAHU put out on April 25th. If you don't have it, go to the OCAHU website to grab it. Most importantly, learn what the supporters are saying, and how to respond. Join us at the OCAHU May meeting to help Fight the Fight! We'll give you ideas and tools to use in our campaign to say NO ON SB-562! Please attend the OCAHU meeting on May 16th for updates and some ideas on how to fight the fight, together, and with our communities, our clients and our professional contacts. ##

Author's Note: This article was written, and the interviews were conducted with article contributors, based on the current status of the bill. Changes in the bill are likely. CAHU and OCAHU will keep you informed as things change. We urge all of you to attend the May OCAHU monthly meeting for the latest updates, as we expect things to continue to evolve! View the OCAHU and CAHU website for more information.

Reference Sources: Senate Bill 562: February 17, 2017, Amended March 29, 2017 and April 17, 2017; Senate Committee on Health, SB-562, Version April 17, 2017; "A Healthy California Act (Senate Bill 562), Another Attempt to Enact a "Single Payer" Health System in the Golden State", webinar and power point created by the California Association of Health Underwriters; "California Single-Payer Healthcare Bill Passes First Committee Test, LA Times,

April 26, 2017; "California's healthcare-for-all bill passes first committee," Mercury News, April 26, 2017; "Single-Payer health care bill passes 1st hurdle at California Capitol", KCRA.com Nowcast, April 26, 2017.