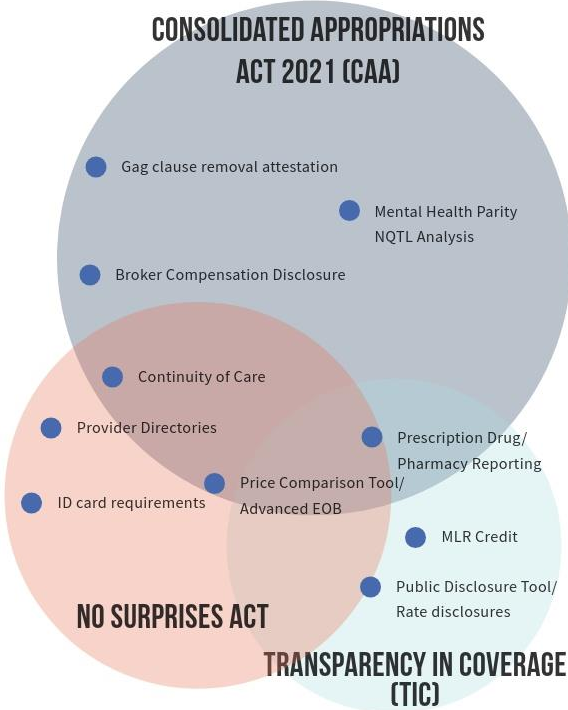




# **NAVIGATING EMPLOYEE FIDUCIARY LAWSUITS AND TRANSPARENCY IN HEALTH PLAN CONTRACTING**

# HEALTH POLICY REVIEW

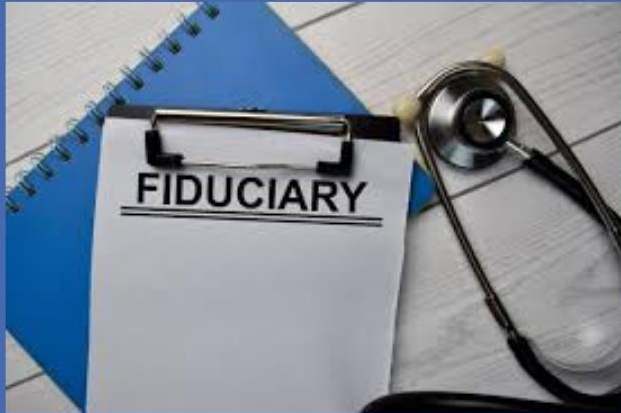


# CAA APPLIES TO ALL ERISA PLANS AND IS RELEVANT TO ALL NON ERISA PLANS

Provision	Relevant § of ERISA	Where to find the law for non-ERISA plans?
Gag Clause Removal	ERISA § 724	PHSA § 2799A-9
Advance EOB Requirements	ERISA § 716(f)	PHSA § 2799A-1(f)
Continuity of Care	ERISA § 718	PHSA § 2799A-3 and § 2799B-8
Provider Directory Requirements	ERISA § 720(a) and (b)	PHSA § 2799A-3 and § 2799B-8
Reporting on Pharmacy Benefits and Prescription Drug Costs	ERISA § 725	PHSA § 2799A-10
No Surprises Act §§ 102 & 103	ERISA § 716	PHSA § 2799A-1
NSA § 104	ERISA § 720	PHSA §§ 2799A-5(c) and 2799B-3
408(b)(2) Disclosures	ERISA § 408(b)(2)(B)	Not Applicable

# HEALTH CARE FIDUCIARY

A health care fiduciary is a person or entity that manages a health plan and is responsible for acting in the best interests of the plan's participants and beneficiaries.



Fiduciaries are subject to certain standards of conduct and have several responsibilities, including: Acting in the plan's interest: Fiduciaries must act solely in the interest of the plan's participants and beneficiaries.

Following plan documents: Fiduciaries must follow the plan's documents, unless they conflict with ERISA. Holding plan assets in trust: If the plan has assets, fiduciaries must hold them in trust. Paying reasonable expenses:

Fiduciaries must only pay reasonable plan expenses. Providing transparent offerings: Fiduciaries must provide competitive, transparent, and ethical health and pharmacy offerings.

Fiduciaries can be plan trustees, administrators, or members of an investment committee. Fiduciary status is based on the functions performed for the plan, not just a person's title.

Fiduciaries can face personal liability for losses caused to the plan, or for any profits they made through the use of plan assets.

# DATA AS THE KEY TO CAA

How to know what health services DO cost, SHOULD cost and COULD cost.



Follow the dollars



Gag Clause attestation removes barriers for employers to secure data and act on findings



New Mental Health Parity guidance requires third party analysis and ongoing monitoring

# WHAT DOES ACTION LOOK LIKE?

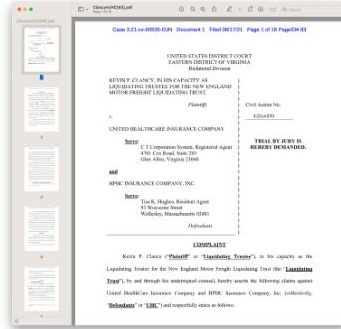
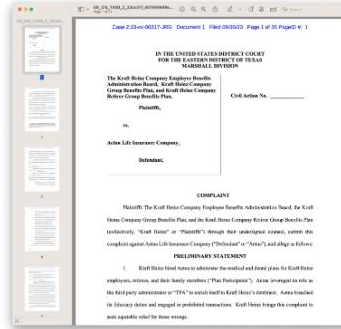
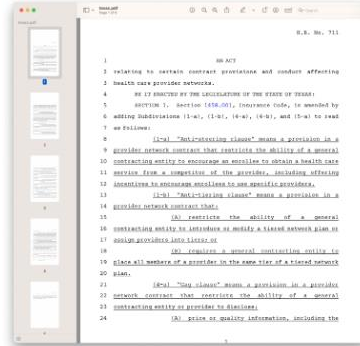
Determine the needs of  
YOUR group based on data

Procure services with  
value and accountability

SAFE HARBOR

# LEGAL LANDSCAPE

And why it matters to you



General Assembly **Amendment**  
January Session, 2023 LCO No. 9990



Offered by:  
REP. MCCARTHY VAHEY, 13<sup>th</sup> Dist. REP. WOOD K., 2<sup>nd</sup> Dist.  
SEN. ANWAR, 3<sup>rd</sup> Dist. REP. PAVALOCK-DAMATO, 7<sup>th</sup> Dist.  
SEN. SCHMIDT, 18<sup>th</sup> Dist. SEN. HYANG, 2<sup>nd</sup> Dist.  
SEN. CARRERA, 1<sup>st</sup> Dist. REP. PARKER, 10<sup>th</sup> Dist.

To Subst. House Bill No. 6669 File No. 453 Cal. No. 290  
**"AN ACT PROTECTING PATIENTS AND PROHIBITING UNNECESSARY HEALTH CARE COSTS."**

- Strike everything after the enacting clause and substitute the following in lieu thereof:
- "Section 1. (NEW) (Effective October 1, 2023) (a) The Comptroller shall establish the Drug Discount Card Program to be made available to all residents of this state. To further the purpose of such program, the Comptroller may cooperate with other states and territories of the United States, or regional consortia to pool prescription drug purchasing power to (i) lower prescription drug costs, (ii) negotiate discounts with prescription drug manufacturers, (iii) optimize the purchasing of prescription drugs, and (iv) establish volume discount contracting. As used in this subsection, "volume discount contracting" means a negotiated purchase of a prescription drug in a large quantity for a decreased cost.

**Lockheed Martin healthcare benefits investigation**

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Join us at Lockheed Martin insurance lawsuit investigation



**Kraft Heinz sues Aetna, says insurer breached ERISA fiduciary duties**

Aetna wrongly retained millions in undisclosed fees and paid provider claims "that should have never been paid," according to the lawsuit filed in a Texas federal court.

Published July 15, 2023.



**Alert**

Aug. 4, 2024

Here we go again: Class action against Wells Fargo alleges fiduciary breach and mismanagement of prescription drug plan

**Executive summary**

- Wells Fargo may have the potential of being named as a defendant in a class action lawsuit against the insurer for breach of fiduciary duty in connection with its health plan, but the lawsuit has not yet been filed.
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# WHY IT MATTERS AND WHAT IT HAS INSPIRED

- 1 Supply side innovation
- 2 Health service marketplace
- 3 Provider/ health system risk models
- 4 Transparent PBM
- 5 Ambulatory resources
- 6 Direct contracting initiatives







# JEFF HOGAN



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